Supreme Court, U.S.
FILED
03137 3 MAR 24 2004
OFFICE OF THE CLERK

No._____

In The_____

Supreme Court of the United States

CLEMENT A. ST.HILAIRE
Petitioner,
vs.

GRACE A. ST.HILAIRE
Respondent,

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE STATE OF MAINE

PETITION FOR A WRIT OF CERTIORARI

FIRST CIRCUIT

Clement A. St.Hilaire
Pro-se Petitioner
P.O. Box 592
Stratham, New Hampshire
(603) 320- 3918 03885
Judith W. Andrucki
Plaintiff, Respondent
179 Lisbon Street
P.O. Box 7120
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine 04212
David M. Hirshon
Counselor Withdrawn
3 Canal Plaza
P.O. Box 15060
Portland, Maine 04112

March 16, 2004

QUESTIONS FOR APPEAL

Whether an Appeal form the Maine Superior Court of Oxford County,Decision of un Timely made, where the "Exparte"Receiver order an being Defendant Agrieved, Contrary,the preservation of Real Property Right Post Divorce Erroneously allowing of the Causation Plaintiff of her Failure,an Intentional Negligence not conducting Immediate Sale Act in the Defiance in lapse 18yrs intent Unjust Enrichment her failure honor three cash sales.

Whether"Prejudice,or Punishment"after"Divorce Interlogatory[A]mended improperly of Original Decree that never Appelled finalizing the parties,must Agreed Test, in"Substance"that "Supersedeas" within Real Property Rights,ConstitutionallyTest grounds for Due Process of Substantial Justice categorize Substance "Procedure"is Controversy Jurisdiction Sufficiently goes issue Merits of Contract.

Whether the law Court abused its Discretion in Barring the Defendant ability to Represent Him self and Equitable Interest when the Statute gives absolute right Const itutionally at Law Plaintiff causation Motion Alledging Contempt arised the Defense sanctioned Justice ColeJ.

Whether Decreed offered Adquate Protection to the Co owner against the Encumbrance of the receiver in form of First absolute Equitable Rights of Purchasing, which has given rise to a Serious Question of law ?[a]mended in Contract Decree did not give Rights of Defendant of purchasing, albeit though Ambiguous its silence decree of Statute of Limitation the decision That violated the Constitution.

WhetherAllowing Receivership Ex-parte was Contrary,

As violation of the four Corners of the Divorce Decree written Consent Agreement,the action must be Agreed By Defendant as not to"Suffer Waste",on said Premises nor Encumber the same in any manner without written consent of the defendant"or exhaust First Right refusal as co-owner Defendant with Equity. Whether Receiver-ship violated its Fiduciary duty, by not offer R.E.S.P.A. Settlement statement ,and Rental Accounting.

Whether the Shifting of Right of Exclusive Possession, in "use"an Abandonment but leased for income. Order Ambiguious in silence in Statute of Limitation Exclusive Possesion.lack no foresight improper document shifted did[a]mended the Silently"use"rental due of $ 200.00 a Month to the Defendant where Plaintiff had abandoned creating Constitutional controversy in"use"her income "Substance"and income Merit rental thus an establishes [h]er waste to the Estate the Plaintiff In Contempt was violating Concealment of an Escrows rental Constitutes fraud not having in Misconduct of No accounts 18years Extrinic Surprise Newly discovered evidence. accounts concealed being Sworn Transcript wrongful exercise of dominion over personal property of another Wrongful withholding of a property can constitute actual interfer-ence even where the defendant lawfully acquire proper ty. If person entitled to possesion of personal property, of unjustly refused to the demands its return back the property is Conversion

Whether the Supreme Court Error by not over turning Justice Cole J.Whom abused his Discretion, by granting Attorney D.Hirshon Motion Withdrawal while pending Counter Claim both Defendant Plaintiff were before Court,there was no substitution of Attorney,Irreconcil-able difference refusal to pursuant Contempt, Appeal use of Rental Violation of M.R.Civ.P. Rule 89 (a) (1) (2.)

TABLE OF CONTENTS

	Pages
Questions Presented on Appeal	i.to ii.
Table of Contents	-iii.-
Table of Appendix	-iii.-
Table of Authorities	- ivtoxii-
Opinion Below	1.to3.
Constitutional Provisions	3.
Statements of Case	3.to6.
Motion Requesting Reconsideration	6.
Arguments of Agrieved Ex-Parte	7.to29.
Reason GRANT Writ Certiorari Court	13.
Unusual Harsh Sanction	20.
Poetry	28.
Conclusions	30.

TABLE OF APPENDIX

Appealed Decision Feb 5, 2004	31.to33.
February 23, 2004 Reconsideration Denied	34.
Inconjuction with Merits of Appeal on Real Rights	34.
Apointment of Receiver	35.to36.
Norman J. Rattey Appointment Receiver	36.
Superior Court Attorney Withdrawal	37.
Superior Court Proof of Co-ownership	38.
Divorce Decree Dec.7, 1983 (Original)	39.to42.
February 5, 2004 Law Court Denied	43.
July 1993 Maine Supreme Court Order	44.
August 5, 1992 " After"Divorce order $11, 118.11	45.
July 7, 1986 Subsituted Order	46.to50.
August 5, 1986 Amended Divorce Order	51.to53.
November 25, 1987 Shifted Responsibility	53.to56.
January 14, 1988 Subtituted Order	57.
Bid in execise of First Rights Option Contract	58.
Receivers Conveyence Deed to Lapointe's	59.
Norman Rattey Deposit of Proceeds	60.

TABLE OF AUTHORITIES

CASES	Page
Angel v. Bullington 330 U.S. 183 (1947)	10.
Advent Systems Limited v. Unisy Corporation 925 F 2d 670, 678, (3rd. Cir.1991)	28.
Arey v. Arey 651 A 2d 351,354, (1994 Me.)	17.
Atlas Life Ins.Co. v. Schrimsher, 179 OKL. 643 66 P.2d 944, 948,	21.
Austin v. Austin 2000 Me. 61, ¶ 4, 748 m.A.2d 996, 998,	10.18.
Batherson J.L. Judge (Me. 531-79)405 A 2d 737, 739,	25.
Bernhart v. Poygrahic Co. 350 U.S. 198 (1956).	20.
Berry v. Berry 658 A 2d 1097 (Me. 1995)	21.
Bissia v. Koulovatoes 2000 Me. 189 ¶ 6, 761 A 2d 47.49 {2.}	18.
Blanchard v. Sawyer 2001 Me. 18, ¶ 4, 769 A 2d 841, 843,	18.10.
Borough v. Norton 316 A.2d 775, 164 Conn.2.	24.
Boisvert, 672 A 2d at 98	19.
Brandon v. Holt, Tenn. 105 S.Ct. 873, 469 U.S. 464, 83 L.Ed. 878 on remand 645 F. Supp. 1261	24.
Branhill v. Rubin D.C. Tex 46 F. Supp. 963, 966,	21.
Burger King Corp. v. Rudzewicz 471 U.S. 462 477, (1985)	11.
Cf. Bankruptcy Code § 547 (e); U.C.C. § 9-203 (1)(c)	25.
City of Bedford 939 F Supp. 21, 929 D.Ma.1996	10.
Chamberlin v. Chamberlin 2001 Me.167 ¶ 4, 785 A 2d 1247,1249,	21.
Chapman v. Bomann cite (Me. 381 A 2d 1123)	26.
Cooch v. Grier 30 Del. ch. 255, 265,- 66, 59 A 2d 282, 287,-88, (1948)	27.
Cyr v. Cyr 432 A 2d 793, 798, (Me. 1981)	9.
Dellefield v. Blockdell Realty Comp. D.C. Ny. 1 F.R. D. 357	21.

Table of Authorities

Cases	Pages
Dominicetti v. Latti [2 Dickens, 588]	12.
Dufour v. Silsby 405 A 2d 737, 739,(Me. 1979)	25.
Edwards v. Jenkins (1932) 214 Cal. 713,720 Witkin Supra at Sec. 622	15.
e.g. Biondo v. Power 743 S.O. 2d 161,164, (Fla. 1999)	16.
e. g. Chicago, M. St. P.& P.R. Co. v. Illinois 356 U.S. 906	27.
e.g. MD. Fam. Law. Code Ann. 8-210 (1991) Wis.Stat.Ann.767.255 (7) (West Supp.1995)	17.
Elkins v. Nobel D.C. NY. 1 F.R.D. 357	21.
Engel v. Ayer (1893) 85 Me. 448 27 A 352,	12.
Erickson v. Erickson 452 N.W. 2d 253 (Minn.CtApp.1990)	20.22.
Farstveet v. Farstveet 200 ND. 189, ¶¶ 23,24, ND. C.C. ¶ 13-02-1-05 (2) 12.16	27.
Fewel v. Fewel 23 Cal. 2d 431, 144 P.2d 592, 594,	20.
Fletcher CYC. Corp § 7949	19.
Fox Film Corporation v. Trumbull D.C. conn. 7 F.2d. 715, 727,	11.
Garland Ex-Parte 4 Wall. 333,-379	8.9.
General 167 U.S. 409, 437,	15.
Gonsalves v. City of Bedford, ,939 F. Supp. 21, 929 (D.Mass.1996)	9.10.
Gowen v. Brothers 121 N.H. 377 430 A 2d 159 (1981)	12.
Green v. Thompson 1 Sim. & S. 121.	15.
Guarranty Trust Co. v. York 326 U.S. 99.	11.
Haldane v. Eckford (1869) L.R.7 Eq. 425	19.
Harkness v. Fitzgerald 701 A 2d 370, 372,	23.
H.E.P. Group Inc. v. Nelson 606 A 2d 774, 775, (Me 1992)	23.
Hill v. Thorneilliam 430 Pa. Super 551, 695 A 2d 186 (1993)	22.
Hursey v. Hursey 147 S.W. 2d 968	27.
Institutional Drug v. Wankinch C.A. 9,249 F 2d 56	21.

Table of Authorities

Cases	Pages
In Ferguson v. Dickinson 1911, Tex. Civ. App.) 138 S.W. 221	19.
In Greenwich Plumbing & Heating Co. v. A. Barbaresi & 164 A 2d 405, 147, Conn. 58, (1960)	16.
Ill. Keller v. Anton (1940) 304 ILL. App.26 25 N.E. 2d 893 (Abstract)	16.
In Mangini v. Wolfschmidt, Ltd. 13 Cal.Rptr. 503, 192 Cal. App. 2d 64, (1961).	19.
In Richards v. Allen 17 Me. 296	26.
Jellison v. Jordan 7 ,23, 1878,68 Me. 373	26.
Jessee v. Aycoth 503 S.E. 2d 528 (1998).	17.20.
J.Hesch 95- 5th T.M. at-32 A 33 (1995)	21.
Jordan v. Mass. 225 U.S. 1967,1976 (1912)	10.
Kasper v. Helfrich. 421 S.W. 2d 66, 69,	26.
Kellogg v. Curtis, 69 Maine 212	25.
Kimball v. Land Use Regulation Comm'n. 2000 Me. 20 ¶ 19 745 A 2d 387, 392	28.
Knapp. v. Bailey page 1995 U.S. 267 (Me. March 1, 1887) R.S. c. 73 § 12	22.
Knudson v. Weeks D.C. Okl. 394 F Supp.963, 976	29.
Kruy v. Kruy 2002 Me.14 ARO. 01-158	21.
Lalime 629 A 2d 59.61 n.1.	18.
Lashawn v. Kelly 887 F.Supp. 297 313,314, (D.D.C.) 1995)	15.
Legro v. Lord & al York Vol. I, page 161- 1833	22.
Liberty Darlene v. Scott Liberty 2001 Me. 19	13.15.
Linder 391 N.W. 2d at 7,	22.
Littlefield v.Littlefield Me. 292 A 2d.204 (1972)	24.
Long v. Long PIS. 96 -679 July 24, 199	14.
Louis Dreyfus Corp. v. Butler 496 F 2d 806, 808 (6thCir. 1974)	26.
MaCarthy v. M&M. Transp. Corp. D.C. Mac. F.F.D. 290	21.
Mayhue v. Mayhue 336 Pa Super 188.485 A 2d 494	17.

TABLE OF AUTHORITIES

CASES	Pages
Mascot Pictures Corp. v. Municipal Court city of Los Angeles 3 Cal. App. 2d 559,40 P. 2d 272.	27.
Mahoney v. Mahoney 91 N.J. 488. 453 A 2d 527 (1982)	19.
Miller & Edwards H. Cooper Fed. 4412 at 284,285, (2d ed. 2002)	13.
Missouri vol. 43 L,Rev. 157, 198, (1978)	25.
National Continena	19.
Nashville, C.St.L.R. Co.v. Browning310 U.S. 362,369,	
Palanza v. Lufkin Cum. 02-134 (Me.143-2002) July 22, 2002 [¶6']	16.22.
Parson v. Wright 649 A 2d 1108,1111,(Me.199)	22.
Patos v. First AlbanyCorp. 741 N.E. 2d 841, 847, (Mass. 2001)	23.
Paul Bates v. Lynn Duby Docket No. CV. 89-88	15.
Peters v. Peters Cum. 96-543 (1997 Me. 134.)	18.
Pitcher v. Lauritzen 18 Utah 2d 368. 423 P. 2d 491, 493,	21.
Plourde v. Plourde 678 A 2d 1032 (Me.1996)	19.
Pomeroy Mr. (2 Eq. Jur. 596 § 603 note)	25.
Pratt v. Spaulding 2003 Me. 56. ¶ 11, 822 A 2d 1183,1187,	15.
Puritan Med. Cyr. Inc. v. Cushman 596 N.E. 2d 1004, 1010, (Mass. 1992)	23.
RBK Caly Corp. v.Brewer Water Dist. CV-94-555 (Me. Super. Ct. Pen. Cty. Dec.23 1994	25.
Roberts v. Roberts 90 Ill. 243 N.E. 2d 372	24.
Robinson v. Owen (1865) 46 N.H. 38.	15.
Ryland v. Shapiro 708 F 2d 967,971,(5th Circuit)	10.
Sacre v. Sacre 143 Me. 80.	26.
Salenious v. Salenious 654 A 2d 426, 429,(Me.1995)	21.
Shaffer v. Shaffer Supra at 764	24.
Schware v. Board of Bar Ex.353 U.S.232,238,239,	9.10.
Semo v. Goudreau 83 A 2d 209, (147 Me. 17)	24.

TABLE OF AUTHORITIES

CASE	Pages
Sheldon J. in Reggio v.Warren 93 N.E. 805, 207 Mass. 525 (1911).	14.
Shiholt v. Angle 90 F. 2d 297, 298, 5th Civ. 1937	13.
Smith Ex-Parte(1950) 145 Me. 174 74 A 2d 225	9.
Smith v. Townsend 109 Mass. 500.	25.
Soper v. Lawrence Brothers 201 U.S. 359, (1906)	17.
Spartan Grain & Mill Co. v. Ayers C.A. Ga. 581 F 2d 419, 424,	24.
St.Hilaire v St.Hilaire CV 81-152(ME. Dec.7, 1983)	26.
St. Mary;s 10 vol. L.J.37-73 (1978) 167 U.S. 409, 445,	25.
St. Regis Paper Co. v. United States 365 U.S. 857, 858,	27.
State v. Cooper 127 N.H. at 126.	12.
State v. Craft. (1981) Me. 425 A 2d 194	9.
Stewart v. Hunt 9 Cal. 2d 39, 68 P.2d 726, 727,	2.
Stravrides v. Mellon Nat.	26.
Nat.Bank & TrustCo. D.C.Pa. 353 F. Supp. 1072, 1077	24.
Thomas Woodall v. C.A. Foti No. 79-3601 648 Fed. 268 June 16, 1981 (Fifth Circuit)	9.
Thomson v. Thomason (1936) 7 Cal. 2d 671,	10.
62 P 2d 358,117 A.L.R.1,17A.L.R. 3d. § 3,[b] 1333,	
Tobey v. Poulin 141 Me. 58 38 A 2d 826 pa.828	13.15.
U.S. American Nat. Bank v. North-Western Mut. L. Ins.Co. (1898) C.A. 8 Colo 89 F 610 cer den 172 U.S. 650 43 L.ed. 1184, 19 S Ct. 883.	16.
U.S. Mon and v.Paramount D.C. Mass. 6 Fed. 2d 222,	21.
U.S.Roth v. Paramount Pictures Dist. Corp. D.C. PA. 8 F.R.D. 31 35 A.C. J.S. § 751	21.
U.S. Walch v. De-Itrick D.C. Mass. 22 F Supp.377	21.
Vowles v. Young, 9 Ves. 173:Pr. Reg. ch 138.	15.
Walker v. Walker 167 U.S. 409, 419, 442,	25.
Weatherford v. Weatherford 257 P 2d. 263 199 Or. 290 (1953)	14.

TABLE OF AUTHORITIES

CASES	Pages
Wild v. Rabe 96 NY.at 425 (26 Trusts R.C.L. 1232)	26.
William v. Syed 782 A 2d. 353	22.
Wilson 634 A 2d at 1254	17.
Yarus v.Yarus, 3 Cal. Rptr. 50 Cal. App. 2d (1960).	20.
Maine Constitutional Art 1, § 6-A § {2} Equal.	3.9.
Maine Const. Article I,Art.1.Sec. 6-A {2}	9.
Maine Const. Article I, Art. 1, Sec. 6	8.9.
Maine Const. Amend 8 Article I, Section 1.	20.
Maine Const. Article I, section 9, Punishment	20.
Maine Const Amend XIV § 1, {1,} Me.	3.17.
Maine Const. Evid. 301 (a)	22.
Maine Const. Article Section 307, 9 Uniform Law at 492 (b) (1977 Supp.)	22.
Maine Const Settlement Act. 31 Me. L. Rev. 333, 337,-38 (1980).	24.
Maine advantage Sec. 1053 4th Ed. 26 Trust 1232	23.
Maine Marital Assets, 31 Me. L.Rev. 333, 337, 13.338, (1980tion 722-A	14.
Maine Field & Mckusick and Wroth 2 Litigant 25 Me, L. Rev. 105 (1973)	24.
Maine Field & Mckusick and Wroth 2 practice § 73.10 1977 (Supp) Section § 307 9	24. 22.
Maine Civ. P. § 173.2 (1977 Supp.)	22.
Maine Reciepts Act. § 11	24.21.
M.R Civ. Rule 2 (b) (3.) Agrieved Note 3	7.
M.R. Civ.P. Rule 58	24.
M.R. Civ. P.Rule 60 (a)	12.
M.R. Civ. Rule 73 (a) 30 days	7.
M.R. Civ. Rule 76 A (b) (1.)	17.7.
M.R.S.A. P. Rule 89, (a) (2.)	23.
M.R.S.A. Chap. 154 Section 17,(1944)	23.
M.R.S.A. P. 33 § 51 ch. 3 (4)	23.
M.R.S.A. 4 § 858 ch. 17 Title 4	8.
14 M.R.S.A. § 1851 at 3 Amd. 2001 ch.17	7.

TABLE OF AUTHORITIES

CASES	Pages
14 M.R.S.A. § § 3571-3582 Uniform Fraud Transfer Act.	22.
14 M.R.S.A. § 5951	24.
19-A M.R.S.A. Section 953	21.
U.C.C. § 2-312	29.
U.S. Constitutional Arbitration Act 9 U.S. C.3 218 F.2d 948 "Procedure"	12.22.
U.S. Supersedeas Rule 17.16 Rule 18 (1)	25.
U.S. Constitution Art. IV , § 1.	24.
28 U.S.C.A. § 1915 (a,d,)	9.
42 U. S. C. A. § 1983 {¶ 10'}	9.
U.S. Ch.64 § 7668 p.27 after note 32.50	23.
U.S. Ch.64 § 7671 p.31 Controversy	15.
167 U.S. 409, 437, Genereal Law	14.
350 U.S. 198, 208,	19.11.21.
444 U.S. 1088 62 L.Ed. 2d 776, 100 S.Ct. 1051reh.	10.
445 U.S. 955, 63 L.Ed. 2d 792, 1000 S.Ct. 1609.	10.
U.S. Fed Civ P. Rule 18 (1)	25.
U.S. Const. Property Sec. 26 of Ch.95	23.
United State Arbitration Art.III, 2, of 1925	11.
United State Uniform Fraud Art I, § 1-103 § 11	22.
U.S.C.S. Constitution Amend 6	10.
U.S. Constitution Amend XIV § 1. {1}	18.11.9.
U.S. Constitution Law 350 U.S. 198,214	22.
U.S. ContitutionalArticle 1, natural Law. First Amendment free speach	9.24.
U.S. Constitutional Article I, section 8	27.
U.S. ConstitutionArt.III, Section (2) Equity in	11.
U.S. Const. Art III, Judiciary Act. of 1789 (Title 28 of U.S.Code U.C.C. § § 2610 2-703, 2-708,2- 711,	21.
U.S. Const. Art.IV, § 1.	27.
3 Am. Jur. 2d § 19	28.
35 A. CJS. 90 § 332 page 506-36	22.

TABLE OF AUTHORITIES

CASE	Pages
35 B.C.J.S. Fed. § 917 Rule 42 (b)	19.
24 A. Am. Jur. 2d § 1170	27.
59 A Am.Jur. 2d Partition § 226 (1987)	16.26.
24 A.L.R. 4th 430 U.S.C.S.	9.
55. A.L.R. § 7 and § 8 [b] page 1053 Waste.	19.
1 Clark on Recievers (2d ed.) § 482 et.seq.	14.
3 Corbin Contract § 40 Ch.27 § 604	16.15.14.
3Pt. Corbin Contract § 580 pg. 436	20.
3 Corbin Contract § 586, Ch.26 Pg. 489	14.
3 Corbin Contract § 611 (1960)	7.15.19.
Appeal and Error Key 71-92 Key 69 (3)	7.15.25.
Appeal and Error Key 81 Key 428 (2)	8.
Appeal and Error Key 843 (2)	18.
Black's Law Dict. Sixth ed. pg. 668 pg.527	9.18.
Black's Law Dict. Sixth ed. page 1269 pg.105	11.22.
Black's Law Dict. Sixth ed. Page 1437	27.
Black's Law Dict. Sixth ed. Page 1580	21.
Century Dict.&Cyclo. Vol.3 D.E.fels 1911	8.
Divorce Key 254 (1.) (2) 1990 Key 256	20.
Escrow Documents 35 C.J.S. §§ 751	21.
Ex-Parte "55. Sup. Ct. R.8 (1) (c)	12.
Federal Civil. Proc. 1788.5	9.
Forclosure M.S.A. § 581.01 et seq. Parol Ev.	20.
Fraud Law ch. 260 § 12.	20.
1. Glendale L. Rev. 341 (1976)	10.
Judgment Final Key 217 Test,(1972)	21.
Parol Evidence Rule ch. 26 § 582 part 3.	15.
Performance Key Note 16, 49 (2) 51,	12.
Prexisting Law Id. & 12.9	22.
RESPA 12 U.S.C.A. § 2601 et seq.	18.
Unilateral Mistake ch.28 § 612	14.
West's Ann Civ. Code Proc § 752	12.
West's Ann Civ. Code Proc § 963 Sub d. 2.	8.14.
West's Ann Civ. Code § 3391, subds. 1., 2,	12.

TABLE OF AUTHORITIES

CASES	Pages
General Rule § 24	13.
Justice (2) (c).	7.
Parties (26 U.S.C. 1041)	21.
Partition Key 22	13.
Proceedings Subd, I, Art. 2293	24.
Professional Conduct 3.4 (i)	23.
Professional Conduct 3.5 (a)	23.
Professional Conduct 3.6 (a)	23.
Professional Conduct 3.6 (c)	23.
Professional Conduct 3.6 (f.)	23.

1.

OPINIONS BELOW

The Petitioner Clement A.St.Hilaire,of State, Maine Petitions to This Court for Writ of Certiorari, to review a Judgment of Court of Appeals in the State of Maine Dated February 5, 2004, By a Five Judge panel decision being unanimous of the State of Maine Supreme Court.

The Appeals where from, Two (but of Three entries) of Orders entered in the Superior Court a June 18, 2003.an Order (Oxford County, Delahanty J. Ex-Party) Granting Grace A.St.Hilaire Respondent,a Motion for Appointment of a Receiver; And a July 8, 2003 order(Cole J.)granting Clement Attorney Motion to Withdraw fromRepresentation. (The third Order Requesting (In Deposition) **(a) Newly discovered evidence of the Plaintiff** In the Fraud,of the Entrusted Escrow Account of the Property Concealed of income,Plaintiff stated I,don't have Funds that were entrusted,her personal account of 1.9 interest **(b)** And the violation of A Statute of Limitation of three years of Exclusive Possession Source Marital Contempt. **(c)** And the Court Explanation of a Silents in the Aug 8, 1987 order Contrary to Judge,In Superior Court Stating in [T]ranscript Plaintiff may Rent Home, during Winter Months of 1987 so as not have the property[f]reeze up. **(d)**Failure in Fiduciary duties Receiver of Both Interest in not Hiring an Appraiser,Versed in Knowledge of the Market Value. The Broker act of Fraudulent Purchaser at Bay underhanded for Seventeen days as Quick sale. **(e)** Being Half owner of the Property I,was never made Informed, of the House was being Sold,Lack of Disclosure Form from the Receiver,The Concealment,a Broker Firms Owners Idenityof use, was Fraudulent. **(f)** Failure of the Attorney in Notifying Defendant of Receivership, Whom Defendant opposed the Receiver. That Decree is Arbitrary,Arised Good Merits a standing

as Agrieved of Property Rights Arises are issue of Law. "Substances"Procedual".)
(g) The Illegal Conveyence, while Pending in Law Court of the Receivership Pendlite, was oppose by Defendant
(h) The Receiver failed in his Duty giving Actual Notice to the Defendant of the Absolute First Rights to Purchase the Co-tenant Equity interest in the Fee Property.
(i) The Silents of a Reciprocal Rental paid by Defendant of $ 200.00 month to the Plaintiff "Identical" in demand Plaintiff Failure in paying$ 200.00 a month for "use"that for 18 years in Refusing to sell was denial of Defendants "Use" and in enjoyment as equity of the Property.
(j) The Adverse Possession of the Property for baring of non payment in use of Co-owner half interest property "Strict Forclosure" legal default allowed for non payment for specified 18 yr. period of Time to redeem home.
(k.) The "After" Post -Divorce" Force Payment of Maintainence, and Taxes, of $ 11,119.11 Ordered over above Aug 5, 1,1992 by Justice Alexander J.)

We dismiss the Appeal of the first order as untimely, affirm the second order, and impose sanction because this appeal is Frivolous(Intentional Obvious pretense of Omission to Punish already Sanctioned, years ago and Law Court never taken action,of addressing issue Bar).
1 BACKGROUND
[¶2] This is Clement's sixth appeal associated with the Parties' 1983 divorce Judgment, which originally order Clement to sell the parties' marital residence. Clement failed selling the Property, and the Me. Superior Court. (holding that a detailed showing of pattern of abusive and frivilous litigation may support enjoining a party from filing frivolous lawsuit) (The entry is ;)
The Appeal of the order of June 18, 2003,is dismissed as untimely pursuant to M.R.App. P. 2 (b) (3): the order of July 8, 2003, is affirmed. Clement .St. Hilaire shall pay Grace St.Hilaire treble cost and her reasonable attorney

Fees, to be determined on remand. Clement St. Hilaire is prohibited from filing any motions or appeals in this case unless a Licensed attorney signs the pleading subje cted to M.R. Civ. P.11, or a Superior Court Justice makase preliminary determination that filing is not frivolous.This matter is remanded for further proceedings consistent with this opinion.

JURISDICTIONAL STATEMENT

The Judgment of Maine Court of Appeals was enter on February 5, 2004. A requesting Reconsideration as that an Agrieved party Defendant filed on February 9, 2004 On February 23, 2004 Order Denied.The Appeal filed to be within ninety days of the date This Court's jurisdiction was invoked under March 12,2004. Arbitrial 304 U.S. 64 Due Process 353 U.S. 232.238,239 Merits 350 U.S. 198, 208, Rights in Property 471 U.S. 462, 477 (1985) Equal posession 350 U.S. 198, 1956 Entitlement 469 U.S. 464 Victim's 225 U.S. 1967.Conversion 214 Cal. 713, 720,622

CONSTITUTIONAL PROVISIONS INVOLVED

UNITED STATES CONSTITUTION, ARTICLE I, ART.1,SECTION 6-A {2} SEC. 6.

A State cannot exclude a Person from practice of law. The Property Rights and Interest of Enjoyment deprive

U.S. CONSTITUTION AMEND XIV § 1,{1}

Equal Protection of Property deed right of Due Process.

STATEMENT OF THE CASE

Clement A.St.Hilaire,Defendant, Appellant Petitioner, Grace A. St.Hilaire, Plaintiff, Appellee,Respondent filed Initiating document"personal letter" July 30,2003, with Frudulent Sale Contract lacking Earnest Money a alleged of false complaint was Causation acting as Pro-se in South Paris, Maine Superior Court. Property Co-owner in There Controversy as both with one half interest the Home Marital Property at 457 Blanchard St. with adjacent Lots in said, in Rumford ,Maine. David M. Hirshon

Esq.was hired with Postal Retainer check represent the Defendant had Filed A Counter Claim for Contempt of 18years a refusal of immediate sale.The Court Hearing resulted in Justice Delahanty's J. Order.The Plaintiff had to hire a Counselor to represent the Plaintiff.The Justice had Stated for her Failure in not selling the Property.
The Justice ColeJ transcripts of Hearing on September 9 2003,Order was released for use only in defend an Appeal Defendant was very capable defend him self- Pro-Se the hearing held in Chambers, Plaintiff Counsel denied the Judge Stated this day isn't about request of counsel fees.The Hearing held on Withdrawal of David Hirshon Esq.Order So,and was in violation to Maine Bar of Professional Conduct 3.5(a) and 3.6 while in duration on existing litigation in the Lower Superior Court.

The Parties Agreed Original Contract Divorce Decree on Dec. 7, 1983, and that was never Appealed, by either party. Defendant in Posssesion was order to sell home an within two years of the decree the Judge found the Defendant in Contempt of Court, Failure of not selling The Marital Property. On July 7, 1986 at Court Hearing the Defendant was order Pay rental to Plaintiff.Amount of $ 200. 00 Monthly.On Aug. 5, 1986.
The Justice Shifted"Exclusive Possesion " of the Marital Property to the Plaintiff with instruction of a Immediate Sale.Ambiguity of Silents the Statute of Limitation also Silence to the Abandoned, and the Rental "Use" to the Defendant.The Justice informed her she could rent the home in 1986 Winter Months in care within the sale of the Property so as not to Freeze it Up. Contributory in Negligence at fault Plaintiff of caring as prudent person **are question of fact left to a Jury.**
The Continued Intent in Not abiding acted as**" Laches" of "Net" Unjust Enrichment Refusal to sell** that excee ded all Statutes of Limitation,Where it extented for 18yr

The Superior Court had Failed in making a Just Equitable Ruling of Division of "Post-*after* Divorce"Rules the affected the Future Income of the Defendant Property, and without being**"PreJudice"**The Defendant Appealed to the Law Court for Direction. Six Times Appealing an Six Subsequent Orders Fell on deaf ears an their failure to acknowledge, the Misappropriated Rental "use" the Defendant thus their change of"Ambiguous Decree" its never was [A]mended properly or Justly.
Plaintiff collecting rental of $600.00 a month was highly "Created an Suffering Waste nor Encumber the Same" negligently below market rental, without keeping any Escrow Account in defiance to Court order demanding an Immediate Sale an copies of Leasee Parties deposits. In Context, a Plaintiff's negligence in Lapse diligently not applying the efforts of in Selling Marital Property.

The Receiver Norman Rattey "Ex-Parte order" was in conflict of Interest on two count's. Defendant Failed in his Duty by not Hiring a Qualified Appraiser of the Pro perty as Fiduciary to Both Clients Co-owner Building with Adjacent Lots at Property on 457 Blanchard Street And in Rumford, Maine. Failed to have given a Proper "Actual Notice"of Purchaser's offer,have not exhusted clearing Title of The Absolute First Rights to purchase Option to acquire the Plaintiff Equity.The Merit of the Case Real Property Rights.The Settlement was without knowledge of a third party. Deficience to the Co-owner interest.nor signing an sworn Free Will in Deed,records in registry of Deeds on Dec. 9, 2003 Deposit $ 72,949.99 with the Superior Court.
The defendant never recieving an updated accounts the Rental income of theTrue Expenses or Form of Sale and Settlement Statement which defyies the Federal Statute of" RESPA" Closing requirements Real Property Rights at Law.The Appeal in this Petition was for Title defense.

To protect property rights of the Adverse prossesor. The Statute of the Receiver That Defendant being Party "Argieved"must Respond in an Timely Right's Appeal protection for ripe for Immediate Rivew the Contrary Maine Supreme Court.Where Controversies involving Property That"Ousted",by Litigation threaten the right Intrinsic, the"Substance" contents "Procedural"adverse to Circumventing Just Division Arbitral agreed having exhausted all end, of Receiver his duty of Fidelity clear Substance of Law. Plaintiff exclusive" use"and after the Divorce payment that Defendant was forced to pay to the Plaintiff of $ 11, 119.11 to the Courts as a Judgment ordered on Aug.8, 1992. "Post-Divorce" payment.

MOTION REQUESTING RECONSIDERATION
Filed within fourteen Days of the Decision February 9, 2004,Agrieved Party is allowed 30 Days to be Timely in an Appeal on Property Rights 14 M.R.S.A. § 1851 at 3 was Amended by 2001 Rule (b) (3). on Receivership of
The Lăw Court exhibit of M.R. App. P .Rule 2 (b) (3.) is Quashed The 95 A.L.R. 911, Subject " Receiver's"Appointment in divorce Suit". And it is equally clear that appellant's failure to have appeal from the June 18, 2003 Order appointing the Receiver, would have precludes him, in a later motion to vacate, from complaining of The defects, of the Receiver See; Hursey v. Hursey 147 S.W. 2d 968.

The Uniform Fraudulent Act 14 M.R.S.A. § § 3571-3582 Defying The Absolute rights for defendant To Purchase the property.

If a Person entitled to possesion of personal property demands its return, the **unjustified refusal to give the property back is conversion.** Edwards v. Jenkins (1932) 214 Cal 713, 720 Witkin, Supra at section 622.

7.
THE ARGUMENTS OF COUNSEL AGRIEVED BY AN EX-PARTE JUDGMENT

The Decision filed, by the Law Court on Feb 5, 2004 was Appealed an alledged filed untimely.Decision error The Law Court was unsupported. The Request Review filed by the Defendant.The Court had overlooked, and Misapprehended that the Party was **Agrieved** Ex-Parte Order which the defendant rebutted of Substance being in timely fashion. Rule 76 A (b) (1.)Points of Procedure, Fair instance of Justice (2)(c)had a Good cause showing.

The Request, of a Timely"Actual Notice"of Appeal. The Plaintiff Order as signed by (Delahanty J.) on. June 18, 2003.Superior Court Stamped the document on June 20 2003.I, Clement A.St.Hilaire Signed the Appeal request of July 12, 2003. Being a weekend. On Monday July 14, 2003 the appeal was filed, in South Paris Me. Superior Court.July 14,2003 Twenty Four day gone by Saturday Being only July 12, It was only 24 days latter then June 18, 2003, Receivership Order. M.R.App. P. Rule Appeals Rule 2 (b) (3.) A party Agrieved by a Post Judgments a order Motion under rule (b) (3) foot note 3.

{ Editor's note; 14 M.R.S.A. § 1851 at 3 was amended by 2001,Ch.17, to authorize the Supreme Judicial Court set the Time Limits for filing Appeals.}

M.R.APP.P. RULE 73 (a"Notice of Appeal must be filed within 30 days,Therefore Appeal the Defendant Timely Filed TheirAppeal. Defendant Agrieved by the Ex-Parte the Order and decided June 18, 2003 Unknownon and it was without a timely notice to Defendant his Attorney. No Copies were ever sent Receivership by either Court or Counsel .

A Copy Mailed, from Superior Court of South Paris, Maine.On July 8, 2003 Attached is the envelope Exhibit That I,Received on July 10,2003,Being only"Notice"That

was given Receiver Order.Appeal an Error Key 69 (3). Interlocutory Judgment, Partition Decree in determining rights and interest of parties and directing Appeal. The Law Court review of Motion New discovered evidence whether Waste,or Partition in order of Fraud, of the Property sale and division of proceeds.

West's ann. Code Civ .Proc. § 963, subd 2. E.Schwartz. v. D. J. Shapiro Civ. 21442 Oct. 15, 1964 40 Cal. Rptr. 189. A Prerequisite of the right of Appeal Interlocutory the decree a partition Appeal. & Error Key 428 (2). Ex-Parte that effects the Substantial Right of the absent Parties in turn Insinuates Particularity of deficiency and accuracy of the Statement. One of the parties concerned in Controversy. All parties to the difficulties, or preplexities concerning,which relief is sought"unite" Century Dictionary And Cycloopedia Vol. 3 D.E. fels 1911.

The Law Court fails to see ; that the original Decree Order of Dec. 7, 1983 was an Agreement upon Order Settlement, A Property being Marital, was an open-ended the Immediate sale Subject making a finalorder, being Susequent order,the originalorder.Plaintiff was in Contempt violation of Court Order after 18 years
The Plaintiff failure in Not applying or not selling home for past 18 years. The Plaintiff calculated with the intent Condition broken Affirmed by proviso Reciever deed. Major unsettled, Real Property Rights isn't a Trivial suit as victim but Question of Law Appeal and Error Key 81 As Court said in Ex-Parte Garland, 4 Wall. 333, 379,

PRO-SE ONE SELF DEFENDING
M.R. S.A. 4 § 858 ch. 17 Title 4

Maine Constitution Article I, Art 1. all men are equal ly free and Independent, an have certain natural

Unalienable rights in Defending accquires possessing and to Protecting Property in pursuing and obtaining safe of and happiness.Sec. 6-A.{2} Sec. 6 futher nor be depri ved of Property, Privileges,but Judgment of his Peers or The law of the land U.S. Constitutinal Art I ,Art 1.

A State cannot exclude a Person from practice of law or from any other occupation in manner or that reason Contravene the Due Process a Equal Protection Clause, of the Fourteenth Amendment " Schware v. Board of Bar Examiners, 353 U.S. 232, 238, 239, As Court said in Ex-parte Garland, 4 Wall. 33, 379,. See: Cyr v. Cyr. 432 A 2d 793, 9797, 798, (Me. 1981.)

Prejudice Standings Against the Defendant in Denial of Due Process Property Merits Right, Contrary Frivolous The Law Court"Sanction is Illegal"an Contridiction the Federal Law 2. Civil Rights Key 13.12 (2) Federal Civil Procedure Key 1788.5_Thomas Woodall v.C.A. FotiNo. 79-3601 648 Fed. 268 June 16, 1981. (Fifth Circuit).The

In artfully drafted, must be held to less rigorous standards than formal pleadings prepared by lawyers, and can only be dismisse for failure to state a claim if it appears beyond doubt that plaintiff can prove no sence of facts in support of his claim which would entitle him to relief.

See; 28 U.S.C.A. § 1915 (a,d) 42 U.S.C.A. § 1983. {¶ 10} Black Law Dictionary sixth ed. page 668 Due Process of Law **U.S. Const. Amend XIV § 1 {1}** Me. Const. Art. 1, § 6-A-§ {2} Equal Protection of Due Process.

Parties may plead and manage their own cases Pro-se in Court or do,No person whose name has been struck from the roll attorney. 1.Attorney Pro-seThe State may not force a lawyer upon a defendant who properly asse rts the right to proceed Pro-se State v. Craft. (1981 Me. 425 A 2d 194. Ex-Parte Smith (1950) 145 Me.174,74 A 2d_ 225.can Appeal-by self Representation 24 A.L.R. 4th 430

U.S.C.S. Constitution Amendment 6 Permit Defendant to act as own Lawyer 1.Glendale L. Rev. 341 (1976)and Existence to the Extent of rights Litigant's in Civil State Appellate Courts.
TheTerm"Extent"Exclusiveness § 3 infra.) to conduct an appeal in person § 4 [a]infra 444 U.S. 1088 62 L.Ed. 2d 776, 100 S.Ct. 1051, Reh. den. 445 U.S. 955, 63 L.Ed. 2d 792,100 S Ct1609. Austin v Austin 2000 Me. 61, ¶4, 748 m A 2d996, 998, "Classic definition Blanchard v.Sawyer , 2001Me. 18, ¶ 4, 769 A 2d 841,843.
The "Right of access to the Courts" basic to our system of governments,and it is well established today that it is for the fundamental of right protected Constitutionally. "Ryland v. Shapiro 708 F 2d 967,971, (5th Cir. 1983) Victim's ability to obtain relief; see; Also Gonsalves v. City of Bedford, 939 F. Supp. 21, 929 (D. Mass. 1996). Jordan v. Massachusetts, 225 U.S. 1967, 1976, (1912), Angel v. Bullington 330 U.S. 183 (1947) The Power of a State to determine the limits the jurisdiction of its Court Controversy in character" substancive" which shall be heard cannot be deny access its court's is also subject to restriction imposed by the contract,full faith and credit, and privileges and Immunities clauses of Constitution. Right is not"a matter of Grace and Favor"The Property in Exclusive Possession where Controversy is ignored.

A State Cannot exclude a Person from Practice of Law or from any other Occupation a manner or for reasons that Contravene the Due Process of equal Protection Clause of the Fourteenth Amendment."
Schware v. Board of Bar Examiners, 353 U.S. 232,238-39
Litigations a Causation that affect Rights and Interest.
Contradictory; to Law Court verdict,Frivolous Appeals In Thomson v. Thomson (1936) 7 Cal. 2d 671, 62 P 2d 358, 117 A. L.R. 1, 17 A.L.R. 3d § 3 [b] 1333"Equitable" Law Court Justice's. Who haven't furnished adequate

Determining principal in the Courts opinion that what difference are between Arbitral and Arbitrary Marital with disregard principals of the law Black's Law Dictionary sixth ed.On facts page 105 Fox Film Corporation v. Trumbull, D.C. Conn., 7 F 2d 715, 727. application of doctrine ErieR.Co.M v.Thompkins, 304 U.S.64 less than self defining. they are delusive.The Intrinsic contents to what was thought to be conveyed by Receiver terms in the particular,context of a particular litigation becomes the essent inquiry.the Contract sufficiently go to merits of the[350 U.S. 198 208,]outcome as not merely because of the contingencies of different Individuals Passing on the same sought question,to make matter of one being " Substance"in the since relevant for see; Erie R. Co. v. Tompkins its"between Citizens of the Different States." U.S. Const. Art. III., Section (2) Equity in" Controversy was under Arbitral under Contract Agreement parties in the expressed in writing Decree.Shall be valid,irrevocable, and enforceable, save upon such grounds as exits a law in equity for the revocation of any contract. "May be attacked collaterally under subsequent "use".

Meritoriously; with Causation of Merit by the virtue Property Rights to Appeal *"Some, how ever, rest on the Fair Play and substantial Justice being Test, a Five-Factor of Balance Test See; Burger King Corp. v. Rudzewicz* 471 U.S._ 462, 477 (1985).The Constitutional test Ground; for Due Process for Substantial Justice.Categories a**"Substance"** and**"Procedure"** explained Guarranty Trust Co v.York York 326 U.S. 99 The Case at Bar: binding and Arbitral The Contract Decree was never Appealed an provision fell within the Law of"Procedure" governing an action the federal Court what ever Jurisdiction,a Controversy under a contract sufficiently go to the Merits of the [350 U.S. 198, 208]_United State Arbitration Act.III, 2,of 1925 Makes the matters one of **"Substance"**,it would araises

Serious question of Constitutional Law. 218 F 2d 948 The Original Appeal filed Reconsideration within Law Court for the recapture in essence of Timely possession Statute of Rules allowing further Issues Appealed for a Review of Receivership. The request Law Court Newly Discovered Evidence M.R. Civ. P. Rule 60 (a) of Plaintiff failure not having produce the Escrow Account having collecting Eighteen years or more in Rental Unjust Enrichment of 18years of $ 600.00 Mth.rental"Net Income" Rights in land,such as profit"**a Prendre**,"may be subject of a separate grant. Engel v. Ayer (1893) 85 Me.448, 27 A. 352.Appeal was filed as Interlocutory Appeal and arised in New Defense for the Defendant .In Protection parties from Substantial and Irreparable injury being a Real Property Co-owners Rights extinguished, Exparte "55.Sup.Ct.R.8 (1)(c)Where the error alleged particular case demanded attention to prevent injustice.

"State v. Cooper 127 N.H. at 126. Evidence resulted's Final Order Contrary to Proper Divorce Source opinion Modified Partition Key 22 Co-Owner Absolute right of Evidence Key 450 (8), one half interest should be First offered to Remaining Defendant.Of the Plaintiff equity as Co-Tenant share. West's Ann. Code Civ. Proc § 752. Contract be entitled to Specific Performance Key Note 16, 49 (2) 51, Must be fair an just,Adequate an equitable its consideration and its enforcement. West's Ann. Civ. Code § 3391, subds. 1,2,Warrants,Ex-parte,"Causation in the Civil case existent in the Context that Negligence Issue for Jury in protection of Defendant.

Against where.as the order for a foreclosure, Obtained upon irregular report, for which can only beconsidered **nullity.** Dominicetti v. Latti [2 Dickens, 588]Gowen v. Brothers 121 N.H. 377 430 A 2d 159 (1981).Fairness an and "Rights meet Both the "Test" 4 Am. Jur. 2d § § 51-64 the Decree Tobey v. Poulin 141 Me. 58, 38 A 2d 826

Page 828."Ex-Post-Facto"The Contract Law Prohibited General Rule of § 24 Miller & Edwards H. Cooper Fede ral Pract and Procedure § 4412, at 284-85 (2d ed. 2002) 6 According to The Commentary. 16 Scott then Filed a Motion to dissolve on the Ex-parte See; Darlene Liberty v.Scott Liberty 2001 Me.19 The Inherent Power a Court to Make orders to preserve.The"Status Quo"and insure The effectiveness of any eventual Fairness in Judgment See; Shiholt v. v. Angle (90 F 2d 297, 298, 5th Civ1937). Evidence was **"Tantamount"** In Not having Provided **"First"Option for the Defendant to have purchased it"** The Equity as Co-owner 457 Blachard Street, Rumford, Me.

> *"The Defendant shall not suffer waste to the said premises nor encumber the same in any manner with out the expressed written consent of the Defendant"*

The Receiver Failed in his Duty to Hire an Independent Appraiser, failed to Listing property Fair market Value and Failed to Sell the Property within arm's length man ner.The Property was Sold within 17days of Listing.The Receiver hired a Broker with a Purchaser at Bay, Failed to act with absolute fidelity, Imprudence to Co-Owners Trustee, Sale violating Fiduciary relation ship.A similar see Schwartz v. Shapiro 40 Cal. Rptr. 189. Marital Property Sale was Causation a Appeal Pending.

REASONS WHY THIS COURT SHOULD GRANT THE WRIT

Absolute must First Option to purchase "Co-owner " interest"Agreed that,owner desiring to sell his one half interest not to exceed original purchase price,that even before he could sell to third party, the absolute right to partition had been modified to require before partition selling owner must first offer her interest to Co owner. And upon not selling to the owner's.see; E. R. Schwartz v. D. J. Shapiro Civ. 21442 40 cal. Rptr. 189.

The Reasons given the Proof expressed,was the **engraf** limitation on the written Warranty in the deed. Divorce decree at Bar;Did not omit any options.Its Decision was affirmed, but on wholly different ground.TheWarranty deed,its Reformation without Notice. Where no options omitted purchasing the Defendant's other half interest as co-owner See; Weatherford v.Weatherford 257 P 2d 263, 199 Or. 290 (1953).3 Corbin Contract § 586ch. 26 pg 489 In the Case at bar:Restitution was decreed the same should be true of the interest **co-owners** being"Larger" an not smaller,but requires explanation and discussion. The "Impliedly" promising sale of the property,general Rule in the United States that the purchaser's to pay the conditional upon the transfer A good Marketable"Title" The Receiver must have exhausted all Co-owner rights the Fee Simple having not transfered rights warranted to the defendant,The Receiver denial of not offering the defendant's property rights left "Un- Marketable Title" 3 Corbin on Contracts 40 ch .27 § 604. Where Property that Courts were required to set Apart each spouse's Co-owner's one half interest in the "use."

Under Maine Marital Property Act:The duties Divorce Courts and the rights to an" Equitable Share"of Marital Asssets,31 Me. L. Rev. 333, 337,338 (1980) Section 722-A Provides for the Equitable or"Just" .see:_Long v. Long PIS; 96-679 July 24, 1997.

The Receiverships Breach in Contract of Fiduciary Relation to"Real Property rights" of the First Option in Purchasing the Equity of Plaintiff an justify cancellation Rescission damages.Right See; Unilateral Mistake ch.28 § 612.Their no ignorance which no one is excused, and the private rights which depend upon the existence of a particular facts and rules which the law declares as that those fact . Sheldon J. in Reggio v. Warren, 93 N.E. 805, 207 Mass. 525 (1911), 1.Clark on Receivers (2d Ed.)§ 482,

etseq,45 Am Jur.§ 385 etseq.Tobey v. Poulin 141 Me. 58 Failure in"Actual Notice"to defendant was a substantial non compliance of good faith effert basis in violation of divorce decree of(Dec. 7, 1983)"Vice versa"to the Case at bar;Below Pratt v. Spaulding, 2003 ME. 56, ¶ 11, 822 A 2d 1183, 1187, Lashawn v. Kelly,887 F. Supp. 297, 313 314(D.D.C. 1995) In Reversal of Receivership the abatement see;Paul Bates v.Lynn Duby Docket Me.CV-89-88 Consent to Remedy modify a Decree is purposes effect. **Personal Property Rental Income** Accusing Defendant an Allegedly not paying share taxes, Maintainence but Keeping personal Property, enlight *"After Post" Divorce* Conversion of the Plaintiff,Edwards v.Jenkins 1932) 214 Cal. 713-720 within Supra at Sec. 622 Contempt 18years an Not Selling the property. Granting application, upon terms, the Chancellor Said; It is a General [167 U.S. 409,437,]Rules that a party can not applying to Court for a favor of while she in Contempt.Vowles v. Young, 9 Ves. 173; Pr. Reg ch. 138 Green v.Thompson,1 Sim.& S.121 The Doctrine of this dicision was adopted precedent Supreme Court of New Hampshire.
see; Robinson v. Owen (1865) 46 N.H. 38. the"Actual Notice"The order attachment in theTort action, Darlene Liberty v. Scott Liberty (2001 Me. 19). Defendant's Decree of Partition First Option Right One half Interest must first offered of Co-owner wasn't to exceed price, original purchase before he could sell third party, The absolute right modified in decree Caused the appealled. Interlocutory Receiver has made an appealable Order. Appeal and Error Key 69 (3) West's Ann.Code Civ.Proc § 963 Subd. 2. Parol Evidence rule Ch.26 § 582 part 3. Never agreed price Mistake Corbin on Contracts ch.27 § 604 When the Parties have Merged in a Prior decree Divorce Agreement.This is rule of substantive contract law.But the Ex-trinsic evidence in this case, as found by the trial court,proved that.

The parties did not assent to the writing as the complete and "Accurate Reponsitory "of their agreement.

In Greenwich Plumbing & Heating Co. v. A. Barbaresi & Son. 164 a 2d 405, 147 Conn. 58(1960).

The Misappropriation of Parties Exclusive Possession Constitutes materially deterioration would "sequester" **Conversion** of the rents and profits for (her) own "use" Damages of loss of Rents, Profits unjustifying Waste as Ill. Keller v. Anton (1940) 304 Ill. App. 26 (Abstract) 25 N.E. 2d 893 Decision recognizing, apparent Rule).Defendant,was falsely charged,allegation of arrears a unpaid payment of"use"that has added to entire unpaid principal the Plaintiff has constituted waste to Defendant. U.S. American Nat. Bank v. North-Western Mut. L.Ins. Co. (1898), CA 8 CoLo) 89 F 610, Cert den 172 U.S. 650 43 L.Ed. 1184, 19 S Ct. 883 .

The Decree was an Irrevocable legal obligation which creates a legal duty of immediate performance expressed written consent of the Defendant.That Justice Shifted Plaintiff Responsibility of Immediate sale on Aug 8,1986 See; 59 A Am.Jur. 2d Partition § 226 (1987); e.g. Biondo v. Powers, 743 So.2d 161, 164, (Fla. Dist. Ct. App. 1999) See; Palanza v.Lufkin Cum 02-134 (Me. 143- 2002) July 22, 2002 [¶ 6'].and See;Vermont Supreme Court restated in 1910, its old Law against denying to arbitrate in Breach of Equitable Promise in Relief. Contract made In law,hardly a conclusive ground for artributing to the Vermont Supreme Court application of this equitable doctrine in (1958) to Allows such a Stay as here sought See; Nashville, C. St .L.R .Co. v Browning 310 U.S. 362, 369, New York Civ. Practice Act. 1451.

"Peculiar Indigenous"rule and was beyond to Statute of Limitations within Divorce Source (No Mortgage on St.Hilaire Marital Home Since Clement personaly Built.) Exclusive Possession far exceeded (Three Years) e.g.Md.

Fam. Law. Code Ann. 8-210 (1991)Wis Stat.Ann767.255 (7) (West Supp. 1995). (as"Reasonable Period".) Statute of Limitations does not deprive one of Property Rights, without due process of law.

Where" **Ambiguity"In the Decree** writen was Silente to duration in Exclusive Possession, the legal remendies of *Equity [Billighet, Rettvisa]* is available in Legality in some inadequate way this claim involves a particular, piece of Real estate,or if Specific performance of Superior Court Order.Has long past the Limited Statutes on before five expiration of years following enactment of a provision; Soper v. Lawrence Brothers, 201 U.S. 359, (1906) Nor is thereby deprived of any property without due process. Equity Courts General Rule § 7671. p. 31 however, the Appointment of trustee Receivership is Harsh measure And this equitable power Exercise remedy of last resort Mayhue v. Mayhue 336 Pa Super 188, 485 A 2d 494.The Respect is Agreed specific. (The Defendant shall not suff er waste.)The Law Court has voilated positive rules law and has reached as result which is plainly unmistakenly an Injustices that's apparent to be instantly visible the argument Arey v. Arey 651 A 2d 351, 354 (1994) (Me.) The Law Court failed to resolve the Dispute, The Constitutional Obstacles that still remain in the Concept of their failure to give the"Rights,is Controversy"equallizing the Post -divorce"Classic definition"have Circumvented Legal Dispute as question of Law. The Decreed "Ambiguous" Silence in the exclusive failure of Courts in addressing the Statute limitation in Timing of the sale are question of law See; Jessee v.Aycoth 503 S.E. 2d 528 (1998)

The Lost in Ten Good Purchaser Sale Contracts and The Refusal of three Cash offer, more than $ 80,000.00 In certified check. in the 1987,same amount as it sold in 2004, for 79,500.00 an I,Clement A.St.Hilaire Defendant Co-owner was never approached with a Bonafide sales

Closing Statement RESPA ; 12 U.S.C.A. § 2601.

"Tainted" is the Stigma causation by Plaintiff in continued litigation by the attacting to acquire whole bundel of stick Fee Simple

The Property was Marketable, but refrain from selling

A"Marketable Title"is a title free from reason able doubt as a matters of Law, The Title was corrected by the Supreme Court Order, A suspicion of a defect is not enough to render a title unmarketable if the title would satify the "Mythical" well-informed purchaser."

Lalime 629 A 2d 59.61 n.1 "Austin v. Austin 2000 Me. 61 ¶ 4, 748 m A 2d 996, 998, See; Blanchard v. Sawyer 2001 Me. 18 ¶ 4, 769 A 2d 841, 843, Questions of Law or the legal conclusions subject to be de-novo review Bissia v. Koulovatoes 2000 Me. 189 ¶6, 761 A 2d47,49 {2.} Court endeavor. A manner was to avoid continued **Financial Interaction " *after*"** between the Co-owners that Controversy existed Peters v. Peter Cum. 96-543 (1997 Me.134.)Merit the Defendant Constitutional rights in Property,That avoids the Revolving litigation Where that Defense proving unnecessary adjudication for Law Court "Prejudicely" taken Standings against Defendant. Litigation Defense Contrary to Black's Law Dictionary sixth ed. page 668, **U.S. Const. Amend. XIV § 1 {1.}Me.**

" CO-OWNER UNJUST ENRICHMENT"EXTRINIC"

The Constitutional Obstacles of the dispute was Silent of the Statutes Of Limitation on the Time still remain in the Concept of failure, to Post Limits That provided on the Exclusive Possession a"Rights in the Divorce Decree Controversy."Ambiguously"and silent of Expressing in Document Decree was Transcribed,in Judge's chambers The Decree of Aug. 5, 1986.The Plaintiff's Failure to pay Defendant $ 200.00 a month became a Judgment,begun payment on the July 7, 1986 Decree.

The Plaintiff had agreed in Court the of Rental income was to be an escrow account would divided with defendant in open Court Shifted Responsibility onAug.8,1986 of Immediate Sale. National Conference Commissioner A Uniform the State Law § 307,at 204 (1970)**"Decree to Not Suffer Waste from either party"Appointment that Receiver was "Waste"** 55 A.L.R. § 7 and § 8[b]page1053 (Recognizing Rules)of General Rule in Equity;paying *paying taxes, and charging the necessary costs as part of the original claim.*The Case at Bar; her Failure in buy liability Ins. As well that Plaintiff failure to pay insurance, taxes Maintainence out of the Rental Income, was Plaintiff's **duty** appointmented by the Justice Delahanty J.in Trust In Ferguson v Dickinson1911,Tex Civ App.)138 S.W 221

This rule not Limited to Situations where appointment of receiver resisted in the first instance, but applies also to good- faith efforts on reasonable grounds discharge a receivership already appointment Fletcher CYC Corp_ Corp. § 7949 Illinois State W.E. Erickson Const., Inc. v. Congress- Kenilworth Corp. 132 Ill. App. 3d 260, 477 Id. (Citing Mahoney v. Mahoney 91 N.J. 488. 453 A 2d 527 (1982).N.E. 2d 513. Appeal and error Key71, 92)Atta chment or trustee Process is Immediately appealable to exception to final judgment Rule. Appeal and error Key 843 (2) of Claim that Trial Court errored by Acting Ex-Parte That Motion for attachment,A Party was entitled the step any required purpose of his defense Haldane v Eckford (1869) L. R. 7 Eq. 425. M.R. Civ. P. 4 A (c).(i). At Bar No Affidavit of Evidence See: Boisvert, 672 A 2d at 98 (Citing Wilson 634 a 2d at 1254. Plourde v. Plourde 678 A 2d 1032 (Me. 1996).Was to continue as long agent properly performed, thus taking the contract out of the Statute.as In Mangini v. Wolfschmidt, Ltd. 13 Cal.Rptr 503, 192 Cal App. 2d 64, (1961).The Law court to review of questions of State Law must ordinarily be left to the

Courts of Appeals.See;Shanferoke Coal & Supply Corp Corp. v. Westchester Service Corp,. 293 U.S. 449 (3 of the ArbitrationAct.) Erickson v. Erickson 452 N.W. 2d 253 (Minn. Ct. App.The"Amibiguous" Silents in the failure of the Courts to address the limitation in timing of a sale See; Jessee v. Aycoth 503 S.E. 2d 528 (1998). 201990)Divorce Key 254 (2)Divorce Key 256 The unpaid 200.00 a month by the Plaintiff 18 years"characterized" Mortgage entitled a **Forclosure** M.R S.A. § 581.01 etseq "Parol Evidence"The Interpretation applied in asserting the Judgment writen.of any other meaning" At Present One collaterally to both the decree of the divorce court. proof such mistakenly should Not be excluded of"Parol Evindence" Rule in proper proceeding for correction of the error. In Yarus v. Yarus, 3 Cal Rptr 50 Cal App. 2d (1960). Pt.3 Corbin on Contract § 580 pg 436.

UNUSUALLY HARSH SANCTION OF LAW COURT
The Defendant had Possesion of Property forTwoYears and order to sell the Home 1983 to the year July 7, 1986 **Maine Constitution Article I,Section 9 Cruel or Unusu al Punishments Prohibited the law shall not be pased; that all Penalties and Punishments shall be in Propor tioned to the offense; nor excesssive fines being impos ed, nor crule nor unusual Punishments Inflicted.**
Maine Constitutional 8Amendment, Article I, Section1 (Plaintiff Failure in Provide Escrow lease Marital home) proving Compensation for[h]er Expenditures of Prope-rty during [h]er exclusive un Fair and Equal possession **U.S.Supreme Court** Bernhart v. Poygrahic Co. 350 U.S. 198 (1956). ch. 64 § 7671 p.31 **Remaining Controversy** The Negligence in Eluding not selling,the Property with Intent to prolong be Enriched with rental income,Thus Inconsistent with the Decree (abode Living Use)No sale As her Clutch Provided a Waiver of her rights,refussal. Attorney Fees, See; Fewel v. Fewel 23 Cal. 2d 431

144 P.2d 592, 594, Primary Source Power of Federal Courts is provided **U.S. Art III,Constitution Judiciary** Act. of 1789 (Title 28 of U.S.Code) U.C.C. § § 2-6 10, 2-703 , 2-708 , 2- 711,Pitcher v. Lauritzen 18 Utah 2d 368, 423 P.2d 491,493, Black Law Dictionary SixthEd.pg.1580 "Substance" and "Procedure" are, in relation in term a Mode Approaching problem determing Judicial Contr-oversy Sufficiently goes to the Merits "Substance" that araises This case, the serious question of Constitutional Law [350 U.S. 198 , 214] Divorce Key 254 (1)of Property disposed in manner of Equally to Both Spouses.

19-A M.R.S.A.. Section 953 when Improperly divided to both, when the wife had harvested the timber Berry v. Berry 658 A 2d 1097 Me.1995 In awarding marital right in property live their reasonable. Prolonged period the 18 years far exceeded with Unjust Enrichment.

"Abalienate" Salenious v. Salenious 654 A 2d 426,429 (Me.1995)Chamberlin v Chamberlin 2001 Me. 167, ¶4 785 A 2d 1247, 1249,.

Maine is an Equitable distribution State See; Kruy v. Kruy 2002 Me. 14 ARO- 01- 158 " Element of Surprise reduce expenses and delays." see; Institutional Drug v. Wankinch C.A. 9, 249 F 2d 566 The Counter ClaimThat See; MaCarthy v. M&M Transp. Corp. D.C. Mac. F.F.D. 290. Under an Equity Suit. U.S. Walch v. De-Itrick D.C. Mass. 22 F supp. 377 35 B.C.J.S. Fed. § 917 Rule 42 (b). To Estop Futher U.S. Mon and v. Paramount D.C. Mass 6 Fed. 2d 222 Whether Equity avoid a Prejudice. Dellefield v. Blockdell Realty Comp. D.C. Ny. 1 F.R.D. 357 Elkins v. Nobel D.C. NY. 1 F.R.D. 357. Shifted the Responsibility of Sale Only J. Hesch "95 - 5th T.M. at A - 32, A 33. (1995) Parties (26 U.S.C. 1041.) See; Atlas Life Ins. Co. v.Schrimsher,179 Okl. 643 66 P. 2d 944, 948,See; Branhill v.Rubin D.C Tex. 46 F. Supp. 963, 966. (ch.64 § 7668 p.27. after note 32.50) Refusal to Produce Escrows and Documents 35 C.J.S. §§ 751 U.S. Roth v Paramount

Pictures Distri.Crop D.C.Pa., 8 F.R.D. 31 Willful That the Court pleases it self and Failed to lack future forsight to the Receivership Fraud of The Transfer of Recording in Oxford County in Notice Property was sold, to a Third party without Notice, given to Equitable Co-Owner an not actknowledged Sale a violation Prexisting Law. See" Id. & 12.9 Quoting Parson v. Wright 649 A 2d1108, 1111, (Me. 1994) The Uniform Fraudulent Transfer Act. 14 M.R.S.A.§ § 3571-3582Unlawfullness of Denying the Defendants Rights **Major Controversy:** The Defendant was forced to pay the Plaintiff $ 200.00 a Month"Use" the Responsibility Shifted resulted 223 months. later of $ 200.00 x 223 Mth resulted=$ 44,600.00 Plus having Collected a amount $ 11,119.11, Defendant was forced to pay,the plaintiff."*After Post-Divorce"*characterzing merit as Foreclosure that Statutory Mechanism of remained thwarted under the circumstance I, find the award Principle interest and plus under a lien, due Defendant total $ 55,719.11 due. Erickson v. Erickson 452 N.W. 2d 253 (Minn App.1990 See;Palanza v. Lufkin 2002 Me.14 Aug. 22, 2002 laches, Linder, 391 N.W. 2d at 7. Knapp v. Bailey page 195 U.S. 267 (Me.March 1, 1887) R.S. c. 73 § 12Actual Notice Legro v. Lord & al York Vol. I, Page 161(1833.")

The preparation by Pro-se However**"Artfull Drafted"** are excepted" See; Hill v.Thorneilliam 430 Pa.Super551, 695 A 2d 186, (1993) William v. Syed 782 A 2d. 323. **Defandant Counsel Withdrawal, in Droping the Ball** while within case at bar, South Paris, Maine, Superior Court.The Relationship became Irreconcilable Attorney not wanting pursue the Plaintiff of Rental or her "Use" The Client relations on the Appeal in refusal to pursue The Contempt Charge; David M. Hirshon has Caused a Foreseeable"Prejudice Situation"The Portland Me.Area in his Withdrawal and Affirmed by Justice Cole J.within Aug 7, 2003, as Defendant Counselor, after having paid

Cash Retainer of $ 2,000.00Legal Contract Employment and Having Dropted the Ball while the Case is Pending Motions Under M.R.S.A. P. Rule 89, (a) (2.)There being Alledge off-set Contempt at Bar.The Prejudice effected withdrawal of Outstanding Litigation an Fraudulent act of Concealment in Action,Gen. Laws Ann Ch. 260 § 12. The Parties imposed a Duty to disclose the cause of Act See; Harkness v. Fitzgerald, 701 A 2d 370, 372, (Me.) 1997)Citing H.E.P.Group. Inc. v. Nelson 606 A 2d 774, 775, (Me. 1992) accord Patos v. First Albany Corp. 741 N.E. 2d 841,846,847, (Mass 2001). Puritan Med. Cyr.Inc. v. Cushman 596. N.E. 2d 1004, 1010, (Mass. 1992)Nor having no receipts or accounts § 11-116 of the Renter or Lease. (a) A Lawyer's best Judgment in the reasonable measure to keep the client informed on it Status of the Client's Affairs.(b) A Lawyer shall not provided arrangment, with respect to the provision of Limited Representation and Keep the Client informed. at Bar. Appellant Was never informed,by Counselor,of Ex-Parte Hearing thatTook Place on the Receivership.**3.6** Conduct During Representation (a)A.Lawyer shall take reasonable measures to keep the client informed on the Statutes of the Client's affairs. A Lawyer shall not **3.6** Professional the conduct (c) Permissive Withdrawal. Other than as provided these Rules a Lawyer may not request permission withdrawal in matters Pending before Tribunal Court. Unjustified a withdrawal of David Hirshon Esq. (At Bar Plaintiff Alledged contempt charge filed improperly In the process)was Civil P.(Long arm Statute). **3.6 (f)** The Lawyer shall not communicate or cause another communicate on the subject of the representation, Receiver ship caused by the Plaintiff, was in violation of Rule **3.4 (i) 3.5** Withdrawal from employment (a.) In a Contract was expressed in Retainer. a Total of $2,350.00 in checks Employment See; Corbin on Contracts 350 was for the Court Reporter,Therefore David M. Hirshon Employed

In Contract. The Receivership has negotiated and Thus Attorney Refused the willingness to have processed an Action.As party(*as Receivership attorney had a conflict of interest, with that firm for an incorrect opinion of Title.)*

Norman Rattey Esq.Contrary from Delahanty J. Order. Property.Test Whether Final Key 217"Test"Conn. 1972 Test of finality of Judgment whether that rights parties, are concluded, that Further proceedings can not affect its rights; Borough v. Norton 316 A 2d 775, 164 Semo v. Goudreau 83 A.2d 209, 147 Me. 17. Plaintiff's Fraud not having, declared proper Escrow rental income, with nor to Defendant.14 M.R.S.A.5951 Uniform Decaratory Judgment See; Roberts v. Roberts 90 ILL. 243 N.E. 2d 372.The Property at bar: Defeadant Built in 1960. While Working two occupations, personally with his own two hands, On empty.cleared Lots.The Property was never Mortgages.See; Evid.301(a).35A CJS. 90 § 332 pg 506 36. **Entitlement** after a Certiorari was grantedThe Supreme Court United States.see; U.S. Brandon v.Holt,Tenn105S Ct. 873, 469 U.S. 464, 83 L.Ed. 878, 645 F. Supp. 1261.

Arbitration Act 9 U.S.C.3 218 F.2d 948 Arbitral that fell within the provision of the law of"Procedure"Subject to review Final judgment in this Court. 2 Field, Mckusick. And Wroth, Maine Civil Practice, § 173.2 (1977 Supp.) Court Erred in the Disposition of Marital Property as procedurally Silent in the Limitation of exclusive Defendant right.Littlefield v. Littlefield Me.292 A 2d 204(1972) "Cross Appeal in Maine;Litigant"25 Me. L. Rev.105 1973 Field Mckusick and Wroth 2 Maine Civil Practice § 73.10 1977 (Supp.) Section § 307, 9 Uniform Law annotated at 492: (b) reciprocal of their other in Partition Divorce. Shaffer v. Shaffer Supra, at 764. Spartan Grain & Mill Co. v . Ayers, C.A. Ga. 581 F 2d 419,424 Black Law Dict. Dict. sixth Ed.page1269.respective interest after divorce.

43 Missouri L. Rev. 157, 198, (1978) J.Castleberry.Const. Limitation on exclusive Division of Property Divorce 10 St.Mary;s L.J. 37-73 (1978)[167 U.S. 409, 445] The Court Ignoring and Failed to see, Plaintiff had a control of the Property and any allegation bills within escrow were all irrelevent since she had all entrusted income and enjoyment entrusted property an enrichment of its income. maney years. The Property was a matters of law, is not entitled to the relief awarded see; Smith v. Townsend, 109 Mass. 500 Satutory notice that is required under the Conveyance acts of Receiver acts See; Kellogg v.Curtis, 69 Maine 212.With in"Actual Notice"Mr.Pomeroy(2 Esq Jur. 596, § 603 note) Cf.Bankruptcy Code § 547 (e)U.C. C. § 9-203 (1) (c).Proof taken was the support question remaining is whether a Judgment based upon exercise of such a assumed power is void for want Jurisdiction, **Maine is Effective Provisions a Settlement Agreement Consent Decree.**See; RBK Caly Corp. v. Brewer Water Dist. CV-94- 555 (Me. Super. Ct. Pen. Cty.12, 23,1994) Walker v. Walker [167 U.S 409,419,442.] The law prohibits the Penalties of a erroneous Judgment What the law allows does not deprived parties of their property without due process of law .Nor does Statute providing recovery attorney's fees of such form UnConstitutional deprivation.Parties at bar shifted with SubsequentThird order of *Post Divorce on* Aug. 8, 1986 Entry of Judgment is properly entered accordance with Rule 58 The Fourth Aug.7,1992 allteration not amending Original Judgment at Bar; St.Hilaire v. St.Hilaire **never agreed upon** arised the opressed that A Receivership Trust clear operation of Law.The Legal Stand points. cites; Statutory requirements,R.S.1944, chap. 154, Sec. 17, Dufour v. Silsby, 405 A 2d 737,739, (Me. 1979). When a Court [A]mends that previous Divorce Judgment the Docket merely should read "[A]mended Divorce that Judgment signed by J.L. Batherson, Judge on 5-31-79."_the failure to indicate the

Proper Substance of the order meet the entry.BlackLaw Dict. sixth ed.{legal remedy is insufficient or inadequate in some way } that doesn't amend specific relief Equity of particular Real Estate.**59 A Am. Jur. 2d Partition§ 226 (1987).** ***which reads:***

> *"There can be no trust concerning lands, except arising or resulting by implication of law, unless created,declared by some writing signed by the party, or his attorney."His citation from Pomeroy on Equity Jurisprudence (4th Ed.), however, makes clear that"All its trust which arising by operation of law are, the name indicates, excepted* from the requirement of the **Statute of Frauds.**" in Sacre vs. Sacre 143 Me. 80, At parallel to Bar obtain an advantage."Again, in Sec. 1053 (4thEd.)"26 R.C.L. (Trusts) 1232 Wild v. Rabe, 9 N.Y. at 425. ***Plaintiff Attempting to reap the benefit of a Contract.*** The First Property"Sec.26 of chap. 95 of the R.S. P,33 § 51 ch.3(4) Jellison v. Jordan Decided 7, 23, 1878. 68 Me. 373

> *Nor will it defeat his rights of recovery that he is in possession of the premises agreed to be conveyed.*

In Richards v. Allen 17 Me. 296 (at Bar Encumbered of Rights within the St.Hilaire v. St.Hilaire CV.81-152 (Dec 7, 1983) Decree. Antagonistic.Plaintiff had Sworn to that She will have Escrow account of rental, signs document, See; Chapman v. Bomann cite Me. 381 A 2d 1123. She also stated to that Judge of not doing what, that cannot be demanded by a litigant as his absolute right Kasper v.Helfrich, Mo. App. 421 S.W. 2d 66, 69, Prohibited law Sherman Antitrust Act, tacitly agrees analyzed legality See;Stravrides v. Mellon Nat.Bank & Trust Co.D.C.Pa. 353 F Supp. 1072, 1077.The February 5, 2004.no reciept intact § 11 of the Uniform Fraudulent Conveyance Act and § 1-103 of the Uniform Commercial Code; Louis Dreyfus Corp v. Butler, 496 F 2d 806, 808 (6thcir,1974)

Speculative Rental by laches, Cooch v. Grier,30 Del.ch. 255,265- 66, 59 A 2d 282, 287,-88, (1948).Per.Procedings Subd. 1, Art.2293 Equitable distribution Connubial cites. Hursey v. Hursey 147 S.W. 2d 968. *"After Divorce"* Settlement 31 Me. L.Rev. 333, 337, -38,1980 Protanto or Tracing"Source of Funds rule"Post Divorce 24 A Am Jur. 2d § 1170 Full Faith Credit Clause. U.S. Constution Art. IV, § 1.The rights a people Petition for a redress of Grievances.

"U.S Constitution Amend,I, a"natural Law First Amendment FreeSpeach clause of Article I,Sec 8 Uniform Fraudulent Transfer Act. Avialable to satisfy the case bar; Farstveet Judged See; Farstveet 2000 ND. 189, ¶¶ 23,24, N.D. C.C. ¶ 13-02-1-05 (2). Receivership accumulate, alleged writs See; Stewart v. Hurt, 9 Cal. 2d 39. 68 P 2d 726, 727. Mascot Pictures Corp. v.Municipal Court of city of Los Angeles, 3 Cal. App. 2d 559, 40 P.2d 272. Black's law Dictionary sixth ed. page 1437

17.16/ Request the Supreme Court**"Supersedeas"**In the Need for a **"Stay of Action"** Appellant, Petitioner was adversly affected by the Judgment of the Lower Court prior to Review by Supreme Court wish the execution of the judgment be both stayed or for the period in pre paration and filing of the Jurisdiction statement or that petition for Certiorari of the period of which a Pending case for Review before the Supreme Court of Appeal. "Supersedeas"where the Judgment exceeded 18 yrs.the rental income now due, to the Defendant where denied Refused.First Option of Co-owner, Plaintiff, Equity.And The Judgment Sought to be Stayed since involves Right Property "interest" in cases.

Where as **abatement of the present sale** disposition of the Settlement,being subject Rule 18 (1) thus speaks of Stay "Supersedeas" See; e .g. Chicago, M . St. P.& P.R. R. Co. v. Illinois 356 U.S. 906 St. Regis Paper Co. v.

United States 365 U.S. 857, 858, 3 **Am. Jur. 2d § 19, 3 A Corbin Contract § 611 (1960).** U.S.(Sixth Circuit)Orchard Group v. Konica Med Corp No. 96-3686 App.98a0041P. The Exclusive requirements in contract to satisfy requirements of the statute of frauds,albeit no specific amounts stated"Advent Systems Limited v. Unisy Corporation 925 F 2d 670, 678 (3rd Cir. 1991)purchasing party the needs precise Fixed Price. (Notice). M.R. App. P. 89 (a) Kimball v. Land Use Regulation Comm'n 2000 Me.20 ¶ 19, 745 A 2d 387 ,392 Legislative intent Statutes of Plain meaning"Ambiguity" We Look beyond that Language to determined Intent. Rule 89 (a) Had filed a, and not a Limitited Appearance contrary that where the attorney seeked With drawal as full time Attorney.

Robert Frost (They were welcome to their belief)

Poetry

Simularly;

("One welcomes the Justice's belief in thee,a Review,
of the Grief I've gotten to bare, of less than care in
negligence in kind begotten of the abode of mine
a review of Agrieved issues never forgotten,
of the parted pair.

But Build and he shell seek, of a young man's
dream I, built to keep I,enjoyed the warnth
confort while for many years the snow on my
roof, but betrayed in Barrister whom departed
left denied an abode in grief, the home I,
wanted to keep, whence in use a thief
parted with my revenue as fraud to keep.")
"C.St.Hilaire"

When does the State or U.S. Constitution Start; as Law personality conflict cause Capricious wrongful abuse of Judge discreation Conclusive mind involve Canon Law law on Judicial ethics Standards are not allowed where a Judge should be open-minded. The nonsensical facts the Defendant see all Exhibits was always in defense of Plaintiff harrassing tactic of Exhibit A-44 July 1,1993 law Court order,**laches** beyond essence of timeThe Plaintiff was told on Aug. 7, 1986 to sell in Expeditious Fashion the property on Exhibit 46 Superior Court told to have to have rental revenue Escrow account were concealed Plaintiff issuing Bond for deed, Nov.1993 leasee Susan, Anthony Parrella leasee a copies plaintiff reinburse che cks to Susan for Paint Bill Property leased up to Aug.30 2000 Constitutional abuse in Law Court Waste Plaintiff did contrary to original Decree 18 yrs in not selling, but leases at net profits,The abandoned home. If a person entitled to possesion of personal property demands its return,that was unjustified Refusal to give the property back is Conversion. Edwards v. Jenkins (1932) 214 Cal 713, 720,Witkin, supra at section 622. Exclusive possesi-on Statute Limitation of (three yrs.) exceed reasonable E.g. Md. Fam.Law Code Ann 8- 210 1991 Wis. Stat.Ann Ann 767 .255 (7) (West Supp 1995). Where Plaintiff for 18 yrs tried"Ouster"with adverse Possesion wrote deed of fraud on personal Transfer of Estate to her The Origi nal Decree States there shall be no Encumbrance"one that has a Legal Claim consistent with the pursuance of the fee by conveyance."That obstruct the action for the debts of Co-owner Half /Interest in the Property. see; Knudson v. Weeks D.C. Okl. 394 F Supp. 963, 976, A warranty of Title purchase U.C.C § 2-312 Black's Law Dict. Sixth ed. Pg. 527. Real Property Rights Defendant Property Sold while under an Automatic Stay of action Pending Law Review exhibit A-36 and A-60 Contrary to M.R.Civ.P. Rule 64 (h) (i) on "Exparte Replevin".

30.

CONCLUSION

The Writ of Certiorari for a good Reasons stated above should Grant this Court a Review of the Decision that State Maine,Law Court Appealing the reciever"exparte order"Co-owner of Real Property Rights,and pendente lite. Contempt, Counter Action, in the lower Court,and Defendant'Counsel hired Contract Retainer Conflicting fidelity Irreconcilable drawal violated professional code conduct under set-off claim.Newly discovered evidence concealment Intentionaly Deprived Fiduciary Account expressed Escrow order Fraud, the Judged, Immediate Sale the intent,Laches of 18year rental income as unjust Enrichment abuse "substance" of merits of "question of law"Prejudice[a]mended,in the Contract,to purchase plaintiff equity."sought unite"that Judge violated error the Constitutional Rights.

Respectfully submitted,

Clement A.St.Hilaire
Pro-se Petitioner
P.O. Box 592
Stratham, New Hampshire
(603) 320- 3918 03885
Judith W. Andrucki
Plaintiff Respondent
179 Lisbon Street
P.O. Box 7120
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine 04212
David M. Hirshon Esq.
Three Canal Plaza
P.O. Box 15060
Portland, Maine 04112

Dated: March 16, 2004

APPENDIX

A-31.

MAINE SUPREME JUDICIAL COURT

Decision 2004 Me. 13
Docket Oxf-03-462
On Briefs: January 22, 2004
Decided February 5, 2004
Panel: Clifford, Rudman, Dana, Calkins, and Levy, JJ.

GRACE ST.HILAIRE
v.
CLEMENT A.ST.HILAIRE

PER CURIAM

[¶1] Clement St.Hilaire appeals from two orders enter ed in the Superior Court: a June 18, 2003, order (Oxford County, Delahanty, J.) granting Grace St.Hilaire's motion for appointment of a receiver; and a July 8, 2003,ord er (Cole, J.) granting Clement's attorney's motion to withdraw from representation. We dismiss the appeal of the first order as untimely, affirm the second order, and impose sanction because this appeal is frivolous.

I. BACKGROUND

[¶2] This is Clement's sixth appeal associated with the parties'1983divorce judgment,which originally ordered Clement to sell the parties' marital residence. Clement failed to sell the property, and the Superior Court subsequently ordered.Grace to sell the Property.Her efforts to do the same were not met with Clement's contempt uous intereference.St.Hilaire v.St.Hilaire, 543 A 2d 822 822, 823 (Me. 1988).

[¶3] More than twenty years the entry of the divorce Judgment, The residence still has not been sold.In April 2003,Grace filed a motion for appointment of a receiver to effectuate the sale of the property. The Court grant-the motion on June 18, 2003, appointing an motion to,

withdraw on July 1, 2003, which the court granted after a hearing on July 8, 2003. Clement subsequently filed a notice of appeal from both orderson July16,2003.

II DISCUSSION

A. The Order Appointing a Reciever.

[¶4.] Generally, civil appeals, must be taken within twenty-one days after entry of the judgment or order appealed from. M.R. App. P. 2 (b)(3). Because Clement filed his notice of Appeal twenty-six days after the entry of the June 18, order appointing the reciever, the appeal is untimely. However, even if we were to reach the merits, Clement's appeal is frivolous. Clement offers no discernible reason for us to conclude that the court act outside its discretion in appointing a receiver.

B. The Order Allowing Withdrawal of Counsel

[¶5.] Clement makes a variety of largely unintellingible contentions regarding the withdrawal of his attorney. The record of this proceeding fully supports the court.'s exercise of its discretion in permitting the withdrawal of Clement's attorney.see Blessing v.DowChem.Co.521 A 2d 1176, 1179, (Me. 1987) (Stating that granting or denying a motion to withdraw is within the trial court's discretion, and the party challenging the proprity of the exercise of discretionary power bears the burden to demonstrate an abuse there of); M.R.Civ.P. 89 (a)

C. Santions

[¶6.]If an appeal "is frivolous or instituted primarily for the purpose of delay," we may award treble costs and reasonable expenses, including attorney fees. M.R.App. P. 13 (f). The record and our prior decisions in this case reflect a twenty-year history of repeated dilatory tactics by Clement in an effort to prevent the sale of the marital residence. See St.Hilaire v. St. Hilaire 526 A 2d 28, 29, (Me. 1987); St.Hilaire 543 A 2d at 823; St.Hilaire v. St. Hilaire, 567A 2d1349,(Me.1990).Clement has previously been found in contempt, ordered to pay costs,

[¶7] We find no purpose in this appeal other than to ca-
And attorney fees for frivolous appeals, and was even ordered to jail in 1992 for failure to make certain payments.
use further delay. Accordibgly, we impose sanctions of treble costs and reasonable attorney fees against Clement See; St.Hilaire, 567 A 2d at 1349.
In order to prevent further abuse of court processes we also enjoin Clement from filing additional motions or appeals of Superior Court orders in this case unless a lic ensed attorney sign the pleading subjectto M.R.CivP.11 or a Superior Court Justice approves the filing of such motion or appeal after making a preliminary determination that the proposed filing is not frivolous, See, e.g., Spickler v. Dube, 644 A 2d 465, 468-69 (Me. 1994) (holding that a detailed showing of a pattern of abusive and frivolous litigation may support enjoining a party from filing frivolous law suits).

The entry is:

> The appeal of the order of June 18, 2003 ,is dismissed as untimely pursuant to M.R.App P. 2 (b)(3); the order of July 8,2003,is affirmed. Clement St.Hilaire shall pay Grace St.Hilaire treble costs and her resonable attorney fees, to be determined on remand. Clement St. Hilaire is prohibited from filing any motions or appeals in this case unless a licensed attorney signs the pleading subject to M.R. Civ.P. 11, or a Superior Court Justice makes a preliminary determination that the filing is not frivolous. This matter is remanded for further proceedings consistent with this opinion.

Attorney for Plaintiff Judith W. Andrucki Esq.

A-34.
STATE OF MAINE

SUPREME JUDICIAL COURT

Docket No. Oxf.03-462
Sitting as the Law Cour **Decision No. 2004 Me.13**
GRACE ST. HILAIRE
v. ORDER
CLEMENT ST.HILAIRE

Upon motion for reconsideration of appellant, Clement St.Hilaire, it is ORDERED that the motion be, and
it hereby is, DENIED.
Dated: February 23, 2004

For the Court
"s./Jon D. Levy"
Associate Justice

STATE OF MAINE **SUPREME JUDICIAL COURT**
OXFORD, ss. **Sitting as the Law Court**
DOCKET NO. OXF.03-462

GRACE A. ST. HILAIRE
v.
CLEMENT A.ST. HILAIRE **ORDER**

Upon motion of the appellee to dismiss the appeal,

It is ORDERED that the motion be deferred and considered in conjuction with the merits of the appeal.

Dated August 5, 2003 *"ss./L. J. Saufley "*
Chief Justice.

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
SOUTH PARIS
DOCKET NO:CV-81-152

GRACE A.ST.HILAIRE
Plaintiff

v.

CLEMENT A.ST.HILAIRE
Defendant

ORDER ON
PLAINTIFF'S MOTION
FOR APPOINTMENT OF
RECEIVER

[Filed June 18,2003]

The Court,having fully considered Plaintiff's Motion for Appointment of Receiver, hereby Grants such motion. It is hereby ORDERED as follows:

1.The Court appoints attorney Norman Rattey,Bar: No. 2659 of Skelton, Taintor & Abbott, 95 Main St. Auburn, Maine as Receiver of the real property owned by the Parties and located at 457 Blanchard Street, Town of Rumford,County of Oxford and State of Maine for the purpose of expediting and accomplishing the sale of the property.

2.The Receiver shall have the following duties and authority

a. To assess the requirements to accomplish the sale;

b. To determine what actions must be taken to clear the title;

c. To engage the service of an attorney to clear the title;

d. To determine whether an appraisal of the property is required;

e.To hire the appropriate individual to perform an appr aisal.

f.To locate a broker or real estate agency to list the property for sale at a price reasonably commensurate with the appraised market value;

g. To contract for the sale of the real estate with appropriate buyers at a reasonable market price;

h.To hold the proceeds of the sale for distribution,

According to the terms of the Divorce Judgment in the above-referenced Case dated December 7,1983 after all appropriate and reasonable costs and expenses of sale are satisfied;

i.To sign all documents necessary to list an sell Property

j. Take such other action required as appropriate and reasonable to transfer marketable title to the property to purchaser for value;

3. Payment for the service of the Receiver will be made from the proceeds of the Sale prior to distribution to the parties.

4. Defendant shall pay Plaintiff's Attorney's fees for the pro secution of this Motion.

5. The Clerk of Courts shall incorporate this Order by refer- ence pursuant to M.R.Civ.P. 79 (a).

Dated" ss/ June 18, 2003 *"ss.Justice Delahanty J."*

Justice, Maine Superior Court.

SKELTON, TAINTOR & ABBOTT

Norman J. Rattey

Ms. Donna Howe, Clerk January 12, 2004
Oxford County Superior Court
Post Office Box 179
South Paris, Maine 04281

Re: Grace St.Hilaire v. Clement A.St.Hilaire
Docket No. CV 81-152

Dear Ms. Howe:

Enclosed is the Objection of Norman J.Rattey, Receiver to the "Motion" entitled " Objection to Application of Norman Rattey Receiver to the Deposit of proceeds in the Amount of $ 72, 949.99 in Court,Prior to Exhaustion of Defendants First Right of Refusal to Purchase Marital Home" and the Other " Motion" entitled " Motion for Joinder of Persons needed for Just Adjudication Order" I appreciate your assistance.

" ss./ Norman JRattey"

Skelton Taintor & Abbot

A-37.

STATE OF MAINE

SUPERIOR COURT DISTRICT
COURT
DOCKET NO. CV-81-152 **[DATED; July 8, 2003]**

GRACE ST.HILAIRE
Plaintiff
v.
CLEMENT ST.HILAIRE
Defendant

ORDER ON MOTION TO WITHDRAW

Counsel for Clement A.St.Hilaire client has filed Motion to Withdraw from representation of the client. Counsel (has served - was unable to serve)the client with a copy copy of the motion and notice of hearing.) The client (does not object to the motion) (appeared in person on at the hearing) (did not appear at the hearing).
The Motion to Withdraw is GRANTED as follows:
1. Within 20 days of the date of this Order,client(s) shall secure the representation of another attorney,or shall write a
6. Upon compliance with this order, counsel shall berelieved of further obligation to the court on behalf of the client in this matter. The Clerk is directed to make the following entry in the civil docket pursuant to M.R.Civ. P. 79 (a). " Motion to Withdraw is Granted. Upon compliance with this Order *"ss./ David Hirshon"* shall be relieved, of further obligation to the court on behalf of the client *"ss/Clement A.St.Hilaire"* in this matter.This Order is incorporated into the docket by reference at the specific direction of the court."

Dated 7-8, 2003

"ss./Justice Cole J."
Justice

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-81-152

GRACE A. ST.HILAIRE,
Plaintiff

[AUG. 13, 2002]

v.

ORDER

CLEMENT A. ST.HILAIRE
Defendant,

By correspondeence dated June 7, 2002, The Plaintiff Grace A.St.Hilaire,pro-se, requested this Court file proper documents " to cansel out the fraudulent deed my former husband had filed to stop the sale of the marital property located in Rumford, Maine."
A hearing was held before me on July 31,2002,The Plain tiff appears pro-se and the Defendant is represented by David M. Hirshon, Esq.The Court hereby reaffirms and restates its Orders dated November 23, 1987, and May 10,1989, finding certain transfers of the marital property after the entry of the Divorce Jud gment were null and Void and of no effect and title to real estate is vested in Plaintiff Grace A. St.Hilaire and Clement A.St. Hilaire as tenants in common with each party owning a one half undivided interest.The Defendant shall prepare and be responsible for filing an Abstract of Divorce Judgment.

Dated "ss/ August 8, 2002" *"ss./Justice Delahanty J."*
Justice,Superior Court

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV81-152

[RECEIVED & FILED]
[DEC. 8, 1983]

GRACE A. ST. HILAIRE
Plaintiff,

v.

CLEMENT A. ST. HILAIRE
Defendant

DIVORCE JUDGMENT

The principal residence owned by the parties and all real estate adjacent to and associated with said residence property is ordered sold in a Commercially reasonable manner so as to bring the best possible price.The Defendant is to be primarilly responsible for the carrying out of this sale which must be conducted within two years of the date of this order. After payment of any Taxes, costs or fees, exclusive of any broker's fee, which fee shall be paid from Defendant's share of the proceeds, the net proceeds of said sale are to be divided equally between the parties,however, provided that the minimum payment which shall be made to Plaintiff from the sale of said house is Twenty-four Thousand Dollars. ($ 24,000.00) .The Defendant is to have exclusive right to possession and use of the premises pending sale of the Property, Further.The Defendant shall be responsible for all repairs,maintenance,upkeep and payment for charges of Utillities, heat and taxes.[The Defendant shall not suffer waste to the said premises nor encumber the same in any manner without the expressed written consent of the Defendant,] page 2.4.The Defendant is ordered to be responsible for all medical,surgical,orthopedic,hospital,optical,debtal,orthodontic,pharmaceutical an mental health expenses reasonably and necessarily incu rred for and on behalf of the parties'said minor child.

5.The Defendant is ordered to pay Plaintiff the sum of fifty and 00/100 Dollars ($50.00 per week for and on behalf of the parties said minor child, effective immediate ly, the first payment to be on or before December 10, 1983.In setting the amount of support for said child the Court has considered fully the child's present physical condition which requires his wearing of a back brace an its effects on his per sonal needs and activities as well as the Defendant's ability to pay support in this amount.

6. The Defendant is ordered to pay to the Plaintiff the sum of One Hundred and 00/100 Dollars ($100.00) per week as alimony, effective immediately, first payment to be made on or before December 10,1983.It is further ordered that upon the sale of the parties'principal residence or disposition of the Insurance Company, which ever occurs first, in accordance with the Court' Order as as noted below,said alimony payments shall be decreased by one quarter (25%),and at such time as the Defendant shall have complied with the terms of this order concerning both the insurance agency and the sale of the parties'principal residence and have paid out the proceeds there of as noted below, said alimony payments shall be decreased by another quarter (25%)of the original amount Further, said alimony payments shall be decreased by another Quarter (25%) of the original amount at the expiration of 5years from the date of this order and that all alimony payments shall cease at the experation of 10 years from the date of this order.

7.The Court sets aside and awards to each of the parties the marital personal property which each party had within their exclusive possession, custody and control on the date of the hearing, Novembber 7, 1983, except as noted below:

A. Each party is awarded any and all bank accounts of whatever nature and description and the proceeds therein which were in their indi-

vidual names as of November 7, 1983. To extent that there were existence any Joint Bank accounts of any type or description or other similar type acc ount standing in the names of both of the parties, they are to be divided equally between them.

B. The Defendant shall pay Plaintiff the sumof 600.00 and Plaintiff shall convey to Defendant her interest in the parties.'"camping Trailer."

C. The Defendant shall pay to plaintiff the sumofTwo Thousand and 00/100 Dollars $ 2,000.00 and Plaintiff shall convey to Defendant her interest in the Pa rties **Camp** located on leased land at Garland Pond

D. The Defendant is awarded the 1984 Buick automobile currently in his possesion.

E. The Plaintiff is awarded the 1981 Buick automobilile currently in her possession.

F. Any Stocks and Bonds or similar items owned by the by the parties not otherwise disposed of this judgment shall be divided equally between them.

G. Each party is to be responsible for any indebtedness incurred or existing on personal property awarded to that person.

8. The Principal residence owned by the parties and all real estate adjacent to and associated with said residence property is ordered sold in a Commercially reasonable maner so as to bring the best possesible price. The Defendant is to be primarily responsible for carrying out of this sale which must be conducted within 2 years of the date of this order a after payment of any taxes, cost or fees, exclusive of any bro ker's fee, which fee shall be paid from Defendant's share of the proceeds,The net proceeds of said sale are to be divided equally between the parties, however,provided that the minimum payment which shall be made to plaintiff from the Sale of said house is Twenty-Four Thousand Dollars $24,000.00) The Defendant is to have exclusive right to possesion.

And use of the premisse pending sale of the Property FurtherThe Defendant shall be responsible for all repair maintenance,upkeep and payment for charges Utilities, heat and taxes The Defendant shall not suffer Waste to the said premises nor encumber the same in anyman ner without the expressed written consent of defendant

9.The Court finds that the fair market value of the insur insurance agency jointly owned by the parties is Forty-Three Thousand Thousand, Seven Hundred and Fifty and 00/ 100 Dollars $ 43,750.00) including real estate an buildings there on together,with furniture,fixtures,equipment and inventory of the business. Accordingly, Cou rt sets aside to the Plaintiff a one half interest in said business and orders the Defendant pay to Plaintiff the Sum of Twenty-one thousand eight Hundred Seventy-two and 50/100 Dollars ($ 21,872.50). It is further order ed that the Defendant may make payment to plaintiff for said amount payable monthly over a period of 10 years together with lawful interest there on in amount equal to that legally chargeable on judgments pursuant to Maine Statutes (T. 14 M.R.S.A. § 1602).

10. Further,the Court orders the Defendant to pay Plain iff's counsel the sum of Three Thousand and 00/100 Dollars ($ 3,000.00) towards counsel fees.expenses and cost incurred on her behalf.Execution to issue forthwith to secure payment there of.

11. Counsel for Defendant shall be responsible for preparing and recording the decree of Divorce or appropriate abstract and for payment of Fees there on pursuant to T. 19 M.R.S.A. § 722-A.

Dated: December 7, 1983 *" ss./ Thomas E. Delahant J."*
Justice, Superior Court.

A-43.

STATE OF MAINE **SUPREME JUDICIAL COURT**

DOCKET NO.OXF.-03-462

GRACE ST. HILAIRE

v. **ORDER**

CLEMENT ST.HILAIRE

Appellant Clement St.Hilaire has filed the folowing four documents with the Court, in addition to his briefs authorized by M.R.App. P.9:

(1)"Appeal from the Superior Court (Oxford County) Obection of Newly Discovered Evidence, Maine Rule Appellate Procedure Rule 10 (b) [sic],"dated December 29, 2003:

(2)"Appeal from the Superior Court (Oxford County), Obection Superior Clerk Action,M.R.Civ. P. 67 deposit in Court [sic]," Dated January 9, 2004:

(3) "Appeal from the Superior Court (Oxford County), Obection Superior Clerk Action, Rebuttal of Receivership action {sic}." dated January 21, 2004.

(4)"Appeal from the Superior Court (Oxford County), Rebuttal to the Plaintiff Objection to Defendant,s. Motion of for Joinder and Rebuttal to Plaintiff Response to Defendants Objection to Receivership motion [sic]," dated January 24,2004 After due consideration, it is here by ORDERED pursuant to M.R. App. P. 10 (b) & (c) that any and all requests for procedural orders or substantive relief contained in these documents are DENIED.

Dated "ss./2/5/04

"ss./ Leigh I. Saufley,"
Chief Justice"

A-44.

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision No. 6555

Law Docket No. Oxf-92-391

GRACE ST.HILAIRE

v.

CLEMENT ST.HILAIRE

Submitted on Briefs June 3, 1993

Decided July 1, 1993

Before Wathen, C.J. and Roberts, Glassman, Cliford, Collins, Rudman and Dana, JJ.

MEMORANDUM OF DECISION

Defendant Clement A.St.Hilaire appeals from an order of the Superior Court (Oxford County, Alexander, J.) arising from his failure to pay money owned to Plainttiff Grace St. Hilaire, his former wife, pursuant to Divorce Judgment, Subsequently Amended.

The Order Comcommitted St. Hilaire's Contentions, we discern no clear error or abuse of discretion in the Court;s order. Moreover, because St.Hilaire has paid the amount due under the order. his objection to that part of the order mandating his incarceration is Moot. International Paper Co. v. United Paperworkers Int'l Union 551 A 2d 1356 (Me. 1988).

The entry is: " Judgment affirmed."

Plaintiff Robert E. Mullen, Esq.

Clement A St. Hilaire
Pro-se.

A-45.

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-81-152

GRACE A. ST.HILAIRE,
Plaintiff

v.

CLEMENT A.ST.HILAIRE
Defendant

[Received and Filed]
[Aug.7, 1992]
Order

Based on the judgment stated on record, defendant is in contempt for failure to pay $ 11, 119.11.

ORDERED :

1. Defendant is committed to Oxford County Jail,and he may be released upon payment of the $ 11,119.11to Plaintiff, payment to be made through plaintiff's counsel.

2. Plaintiff is awarded an additional $600.00 toward attorney's fees associated with litigating this matter after March 26 (1991.)

Dated: August 5, 1992

"ss./Donald G. Alexander"
Donald G. Alexander
Justice, Superior Court

STATE OF MAINE SUPERIOR COURT
OXFORD, ss. SOUTH PARIS, ME.
A TRUE AATEST COPY
"ss./Donna L. Howe"
Clerk of Courts

STATE OF MAINE
OXFORD,ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-81-152

GRACE A. ST.HILAIRE
Plaintiff

[Received & Filed]
[July 7, 1986]

v.

CLEMENT A.ST.HILAIRE
Defendant

ORDER

This cause came on for hearing, and was argued by counsel,upon the motion of the plaintiff for contempt and enforcement of the judgment dated December 7, 1983, After due notice, the plaintiff appeared in person and through counsel. The Defendant appeared Pro-se. Both parties testified

I. REQUEST FOR CONTINUED CHILD SUPPORT

The divorce judgment ordered the defendant to pay $ 50.00 per week Support for the parties' minor child Scott who will become 18 years of age on October 23, 1986.The plaintiff seeks an Order requiring the defend ant to continue support payments until Scott graduate from high school in June, 1987.

This request is denied. See Lagarde v. Lagarde, 437 A 2d 872, 875, (Me. 1981); and Title 19 M.R.S.A. § 303

II. AILIMONY PAYMENTS

The plaintiff alledges that the defendant has wronfully reduced alimony payments to her by 25 % from June, 1984 to present.Among the parties'marital assets divided by the 1983 judgment was their insurance agency business located in Rumford, The Court found the fair market Value of the business to be $43,750.00 and set aside to the plaintiff aone half interest in the amount of $21,872.50 which the defendant half was to pay in full to plaintiff within six months(June 7, 1984 or he could exec ute a promissory note to plaintiff and pay her over a 10 year period with interest.

The Court further ordered that the Defendant pay to plain tiff the sum of $ 100.00 per week alimony for 10 years which sum was to be reduced by 25 % when the defendant paid plaintiff for her interest in the agency, 25 % on the payment of proceeds from the sale of their marital residence and 25 % af ter five years.In June,1984 the defendant executed a note to plaintiff for her interest inthe agency and he has made payment on it to June, 1986. At the time he furnished the note to her he reduced his Alimony payments by 25 %.

The Judgment states:

> **6**.....It is further ordered that upon the sale of the parties' residence or disposition of the insurance company....in accordance with the court's Order as noted below, said alimony payments shall be decreased by 25 %
>
> **9**..... The Court.... orders the defendant to pay to Plaintiff the sum of Twenty-one thousand Eight Hundred Seventy Two and 50/100 dollars. ($ 21,872.50)..... the defendant may make pay ment to the plaintiff of this amount within six months here of or may within said period execu te a promissory note in favor of the plaintiff for said amount monthly over a period of 10 years together with lawful interest...

The Judgment provided for"disposition"of the insurance agency by one of two means: payment of fixed sum in full with with in six months payable with substantial interest over 10 years.

At the hearing on plaintiff' motion the court stated that the intent of its order regarding alimony was that it continue at the full rate until the defendant had met his full obligation for payment on the agency. Since that time the court has had the opportunity to reexamine the judgment and to review its own notes taken at the original divorce hearing and utilized

To draft the judgment.The order made orally in court is vacated. Plaintiff's request for an award of arrears for alimony payments reduced by the defendant is denied. Upon execution and commencement of payments pursuant to the note in June,1984 The defendant had comp lied with the Order regarding"disposition"of the agency and was enti tled to a 25% reduction in alimony payents. The Plaintiff's Motion for contempt and enforce ment on this point must be denied.

III. SALE OF MARITAL RESIDENCE

Prior to the granting of the divorce the plaintiff had mo ved from the marital residence in Rumford and the defendant continued to remain in the home. In addition to being an Insurance agent the defendant is a real estate broker and by the divorce judgment was entrusted to sell the residence an pay to plaintiff her equitable share. Specifically, the judgment decreed that:

8. The principal residence.and all real estate adjacent to and associated with said residence property is ordered sold in a commercial reasonable manner so as to bring bring the best possible price.The defendant is to be resp onsible for the carrying out of this sale which must be conducted within 2 years of [December 7, 1983].The net proceeds of said sale are to be divided equally between the parties, however, provided that the minimum payment which shall be made to plaintiff from the sale of said house is Twenty-four Thousand Dollars.
($ 24,000.00).. Emphsis added.)

Since the date of judgment, the Defendant listed the property for sale within his agency but has taken no other steps to list the property for sale with other agencies, to advertise or even place a sign on the premises. Such lack of action on the defendant's part runs totally councounter to the Order of this Court.This court cannot consider the defendant's dilatory in In failing to market and sell the house and real estate estate as even remote

Being "a commercially reasonable manner".The defendant has willfully failed to market and sell the premises solely for his own gain to provide himself with a home at the lowest possible costs to himself. He has ignored and disregarded the rights of the plaintiff and the order of this court.

IV. JUDGMENT

The entry will be:

A. Plaintiff's motion to maintain support for the parties' minor child Scott after his eighteenth birthday is denied.

B. Plaintiff's motion for contempt an enforcement regarding Alimony payments and for arrears is denied.

C. Plaintiff's motion for contempt and enforcement of the Divorce Judgment regarding sale of the parties' residence is granted.

It is Ordered that the defendant shall forth with contract with a licensed real estate broker or rea ltor in the Rumford area who shall be given the exclusive right to sell the subject premise accord ing to terms of the Divorce Judgment.

Judgment is hereby awarded to the plaintiff against the defendant in the amount to which plaint iff is entitled pursuant to paragraph 8.of the divorce Judgment plus lawful interes from the date of this Order (T. 14 M.R.S.A. 1620).

It is further Ordered that the defendant report this court in writing,beforeJuly 20,1986 the name of the person or agency with whom he has contracted to market and sell the property and the date and terms of the contract.The defendant shall attach a copy of the Contract. The defendant shall attach a copy of the contract and shall furnish an affidavit under oath from the broker,or realtor verifying thatthe property has been assign-

ed and is being marketed. The defendant shall furnish to the broker or realtor selected by him a copy of the divorce Judgment and this Order. No person or member of the agency selected by defendant shall be related to him by blood or marriage nor shall such person or agency have any financial or other interests with the defendant. The plaintiff or her counsel shall have all rights to inspect or copy all documents and records pertaining to said property, including any contract executed between the defendant and any person or agency engaged to sell the property. The Court reserves the right to cancel, void or amend any contract executed for the sale of the property. Pending sale, the defendant shall pay to plaintiff the sum of two Hundred and 00/100 dollars ($200.00) per month as rent on or before the tenth day of each month, commencing on July 10, 1986.

D. The defendant shall appear in person before this court on Tuesday, July 29, 1986, to explain fully all steps taken to market and sell the property pursuant to the judgment and this order.

E. The defendant shall pay to plaintiff's counsel fee and costs for prosecution of this motion which amount will be set by the court after receipt of a statement of service and approriate affidavit.

So Ordered.
Dated: July 3, 1986

" ss./ Thomas E. Delanty II."
Justice, Superior Court.

A-51.

STATE OF MAINE
OXFORD,ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-81-152

GRACE A.ST.HILAIRE
Plaintiff

[Received & Filed]
[Aug.5, 1986]

v.

ORDER AMENDING DIVORCE JUDGMENT

CLEMENT A.ST.HILAIRE
Defendant

This cause came on for hearing upon the Order of this court dated July 3, 1986.

Pursuant to terms of that Order,the defendant was obligated to take certain affirmative action to market and sell the parties' marital residence. He has failed to do so and is in contempt of that Order and the divorce Judgment of December 7, 1983.

I, AMENDMENT JUDGMENT

The plaintiff is entitled to enforcement of the judgment. It is therefore Ordered, Adjudged and decreed that the Divorce Judgment of December 7, 1983 is amend by striking deleting paragraph **8**, (pages **4 and 5**) and substituting therefor the following.

8. The principal residence owned by the parties and all real estate adjacent to and associated with said residence property is ordeed sold in a commercially reasonable manner so as to bring the best possible price. Effective immediately plaintiff shall have sole and exclusive right to use and possession of the marital residence property and all rights as may be necessary to to market and sell the property.

The defendant shall vacate said premises and remove all personal property and belongings from the residence on or beforeAugust.8,1986

If the defendant fails to abide by this Order,a writ possesion shall issue directing the Sheriff of Oxford County or his authorized representative to remove the defendant and his property there from.The plaintiff is to be solely responsible for carrying out the sale of the premise in an expeditious fashion. After payment of any taxes, costs or fees associated with the sale, exclusive of any broker's fees or sheriff's fees upon writ of Possesion, which fees shall be paid from the defendant's share of the proceeds,the net proceeds of said are to be divided equally between the parties, however provided,that the minmum payment which shall be retained by the plaintiff fromthe sale of said house isTwenty-FourThou sand and 00/ 100 Dollars ($ 24,000.00) Further costs and expenses for repairs,maintenance upkeep and payment for charges of utilities heat and taxes shallbe paid by the the defendant. If not paid by the date of the sale the shall be deducted from his share of the net proceeds. Neither party shall suffer waste or damage to the prem ses.Neither party shall encumber the same in any mann er with out the expressed written consent of the other.

II. ORDER OF JULY 3, 1986

It Is further Order, Adjudged and Decreed that the Order of this Court dated July 3, 1986 is amend in Part IV.(Judgment),Paragraph C. by deleting subparagraphs 1,2,4,5,6,7and 8 as they pertain to defendant's obligation to market and sell the property and to pay rent to plain tiff.Subparagraph 3 relating to a judgment amount and interest thereon shall remain in full force and effect.

III. COUNSEL FEES

Pursuant to the Court's order of July 3,1986, counsel for plaintiff has submitted a statement of services render ed support by affidavit.For the prosecution and conduct of the hearings held June 13 and July 29, 1986 the defendant shall pay to plaintiff the sum of $ 546.02 as counsel fees and expenses incurred and the plaintiff shall have

Judgment against defendant in the amount.Execution to issue.The Clerk shall incorporate this Order into the docket by reference.

So Ordered

Dated: August 4, 1986 *"ss./Thomas E. Delahanty II."*

Justice, Superior Court.

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV -81-152
[Received & filed]
[Nov. 25, 1987]

GRACE A.ST.HILAIRE
Plaintiff.

v.

CLEMENT A.ST.HILAIRE
Defendant

ORDER ON PLAINTIFF'S MOTION FOR CONTEMPT DIVORCE JUDGMENT AND ENFORCEMENT OF

This cause came on for hearing upon the motion of the plaintiff for contempt and enforcement of the divorce judgment dated December 7, 1983, and subsequent amendments there to dated July 3, 1986 and Aug. 4, 1986. The Plaintiff appeared in person and with counsel.

The defendant appeared Pro-se. Both parties testified.In the original divorce judgment the court ordered that he defendant be responsible for conducting a sale of the parties' marital residence.It further provided disbursem ents and division of the net proceeds to the parties.after a period of time the plaintiff alleged that the defendant had not made a good faith effort to sell the premises an sought enforcement of the divorce judgment.After two separate hearing the court(shifted)the responsibility for sale of the premises to the plaintiff an vested in her the sole and exclusive right to market and sell the premises. This Amendment to the original judgment **shifted** only

The responsibility for sale of the premisses and did not change or affect in any way the distribution of proceeds from the sale."

The defendant, appearing pro-se as he has in the current proceeding, appealed this court's decision to the law Court which in a decision dated May 29, 1987. affirmed the Judgment of the Court. In its written opinion the Law Court noted that distribution of the net proceed of the sale of the real estate under the amended judgment is the same as under the original divorce judgment.

None of the rights of the parties were affected and the plaintiff sought only enforcement of the judgment.Ifthe Shifting of responsibility for the sale prejudices the defendant in any way by reducing his share of the sale pro ceeds it is due only to his continued obstinance and frivolous arguments which serve only to increase fees and costs chargeable to him.

Since the date of the decision by the Law Court the plaintiff has contracted with a real estate agency for the exclusive right to market and sell the premises. (See;Plain tiff's Exhibit No.4) The Plaintiff has now filed with court a further motion to have the defendant held in contempt and to enforce the terms of the divorce judgment as amended. In support of her motion she asserts that the defendant has interefered with attempts by her real estate agent to sell the premises and that he has notified the agency and her attorney that he maintain a right to to" Co-broker" a sale of the premises and the exclusive right to sell part of the marital property located across the street from the home.(Letter dated July 9,1987from defendant to plaintiff's real estate agent)the defendant's position is without merit. After hearing, the court finds that the defendant is in contempt of an Order of this Co urt and that he has willfully interefered with the plaintiff's good faith attempts to market and sell the premises in question.

The defendant has placed his own "for Sale"sign on the premises in question and by quit-claim deed has attemp ted to convey without consideration his one-half interest in the premises to his son, Timothy L. St.Hilaire and Two-thirds to his mother,Emelda A.St/Hilaire(See; Defendant's Exhibits 1,2 and 3,Quit claim deeds dated October 21,1987 and recorded in the Oxford County Registry of Deeds (So.Paris) at 1517, pages 175, 177,and 179.) The Court finds that these transfers are fraudulent and have been entered into by the defendant solely for the purpose of defeating the plaintiff in her good faith attempts to sell the premises pursuant to the court order and that these transfers are null and void.

Further, the defendant has failed to pay attorney's fees in the amount of $ 546.02 as previously ordered.The pla intiff further seeks an award of attorney's fees for defending the appeal taken by the defendant and for prosec ution of the present motion.

After hearing, it is ORDERED , ADJUDGED and DECREED That

1. Plaintiff has the sole and exclusive right to sell the parties' marital property as provided in the Amended Jud gment dated August 4, 1986: including,the right to contract with real estate agency to market the premises and handle the details of the sale, without the consent of the defendant.

2. The Defendant has interefered with the plaintiff's good faith attempts to market and sell the premises.

3. The defendant is in contempt of orders of this court.

4. The Defendant shall, within 24 hours hereof, remove his "for sale"sign from the premises and he shall not directly or indirectly or through an agent,servant or emp loyee replace his sign with any other nor shall he remove any sign placed there by the plaintiff or her agent, servant or employee, or by any person authorized by her to act on her behalf for the marketing or sale of the

Property.

5. The defendant is hereby prohibited from entry upon the land or premises which are subject of this action for any purpose whatsoever.

6. The defendant shall take no action to impede, interfere with or restrain the plaintiff's attempts to market an sell the premises.

7. The plaintiff has exclusive rights, without the consent of the defendant, to accept or reject any offer for purchase of the premises.

8. At such time as the plaintiff accepts an offer for the sale of the premises it is ordered that the defendant shall fully cooperate and execute any all document that may be required to complete the sale thereof.

9. The defendant is responsible for broker fees, taxes, the ex- penses of upkeep, and other costs as previously provided in the original and amended judgments.

10. The defendant shall forthwith pay to the plaintiff the sumof$ 546.02 for attorney's fees as previously ordered

11. The Court awards to plaintiff a reasonable attorney's fee and expenses incurred in defense of the appeal to the Supreme Judicial Court and for prosecution of the present proceedings. Counsel for plaintiff shall submit to the court a statement of service supported by an appropriate affidavit and the court will there upon set an amount.

12. The clerk may enter this Order into the docket of this case by reference.

So Ordered.

Dated: Nov. 23 1987. *"ss./ Thomas E.Delahanty, II."*

Justice Superior Court.

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-81-152

GRACE A. ST.HILAIRE
Plaintiff

v.

CLEMENT A.ST.HILAIRE
Defendant

[RECEIVED & FILED]
[JAN.14 1988]
ORDER

On Nov. 25, 1987, This Court filed its order on plaintiff's Motion for Contempt and Enforcement of Divorce Judgment.The Clerk mailed attested copies of the order to the parties on that same date.see; (docket entries for November 25, 1987)

Subsequent to entry of this order the defendant filed a pleading entitled "Motion Pleading for Hearing to resol ve the Issue at hand (Marital Property)."There is no pro vision for this type of Motion in our rules of prosedure and even if it is properly before the court it is nonsensi-nonsensical and does not demand any relief which this court can grant this time.The Court finds that it is frivil-ous and interposed only as a further delaying tactic and to harras plaintiff and her counsel.On December16 1987 the defendant filed "Requests of findings od facts of the Conclusion of Law" The Court assumes that the defend ant seeks special findings of facts and conclusions of law pursuant to Rule 52 (a), M.R. Civ.P. The Defendant's request was not timely filed puesuant to rule. Further, the Court's written decision sufficiently sets forth the basis of its ruling. **The Entry will be:**

1. Defendant's "Motion Pleading for a Hearing to resolve the Issue at hand (Marital Property)" is DISMISSED.

2. Defendant's "Requests of findings of facts of the Conclusion of Law" is DENIED.

Dated January 13,1988 *"ss./ Thomas E.Delahanty II."*
Justice, Superior Court.

A-58.

STATE OF MAINE
OXFORD, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO.CV.-81-152

GRACE A.ST.HILAIRE
Plaintiff

v.

CLEMENT A.ST.HILAIRE
Defendant

EXERCISE OF FIRST RIGHT OF REFUSAL AS CO-OWNER OF PLAINTIFF, EQUITY

PURCHASE $ 39,769.00
DEPOSIT $700.00 BID-IN

COMES NOW Clement A. St.Hilaire, Defendant has deposit with the Court for Purchase and sale Contract for 457 Blanchard Street,and All Lots 454,455,456,457458 and 410 of Rumford, Maine on the day of Court Providing that Plaintiff Present a Warranty Deed only by Grace A.St.Hilaire to secure a Mortgage Interest in the Amount of $ 39, 286.50

This Loan Amount is provideed in Certified Check on the condition only the Warranty Deed From Grace is Submitted to the Bank on following Day.

The Bid-in Amount being higher Ourchase the Equity of $39, 769.00 To Have Bid more than the Best Offer one Half the present Bid as CoownerM.R.CIV.P.Rule 67

Justice of the Day

A-59.

RECEIVER'S DEED

NORMAN RATTEY,of Brunswick, Cumberland County, Maine being the duly appointment Receiver of the premise hereby conveyed pursuant to the order on Plaintiff's Motion for Appointment of Receiver issued by the Superior Court of Oxford County,Maine. Docket No. CV-81-152 dated June 18, 2003, a copy of which is attached hereto, hereby grant to **Timothy J. Lapointe** and **Margaret A. Lapointe** of 18 Lockness Road, Rumford, Oxford County, Maine, as Joint tenants a certain lot or parcel land situated on Blanchard Street in **Rumford,** Oxford County, Maine,bounded and descri bed as follows:

Those certain parcels of land situated in Rumford County of Oxford,and State of Maine, shown as Lots 454,455, 456,457, 458, and 410 on a Plan of Virgina Terrace" dated July 1924 and recorded in the Oxford County Registry of deeds, Plan No. 28, A-14 1/2

IN WITNESS whereof, the said Norman Rattey, Receiver, has signed and sealed this instrument this 9th Day of December, 2003.

Witness: *"ss./Norman J Rattey "*

Norman J. Rattey Receiver

STATE OF MAINE
COUNTY OF ANDROSCOGGIN, ss.

Personally appeared before me this 9, day of December 2003, the above-named Norman Rattey, Receiver,acknowledge the foregoing instrument to be his free act and deed, in said capacity.

"ss./ Karen J. Goslin "
Karen J. Goslin
Notary Public

My Commission expires: May 12, 2005

A-60.

STATE OF MAINE
OXFORD,ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV 81-152

GRACE A. ST.HILAIRE
Plaintiff

v.

CLEMENT A.ST.HILAIRE
Defendant

APPLICATION OF NORMEN RATTEY RECEIVER TO DEPOSIT PROCEEDS IN AMOUNT OF $ 72, 949.99 IN COURT
ME. R. CIV. P. 67

NOW COMES Norman J. Rattey, Receiver, appointed by this court pursuant to the Order dated June 18, 2003, hereby requests that this Honorable Court authorize him to deposit the net proceeds of the sale of the premises located at 457 Blanchard Street, Rumford, Maine, in the amount of $ 72, 949.99 with this Court. In support of the application, the application submits the following

1. A photocopy of the check in amount of $ 72,949.99 payable to the Receiver issued by Central Maine Title Company. This check has been deposited in trust account os Skelton, Taintor & Abbott P.A.

2. A Copy of the **opinion of Value of Bob White** of Riverside Realty.

3. A copy of the Listing agreement between the under signed and Bob White of Riverside Realty.

4. A copy of the purchase and sale agreement between the undersigned and Timothy J. Lapointe Margaret A. Lapointe.

Respectfully submitted this 16 day of December, 2003

" ss./ Norman J. Rattey"
Norman J.Rattey Receiver

(2)

No. 03-1373

Supreme Court, U.S.
FILED
APR - 8 2004
OFFICE OF THE CLERK

In The

Supreme Court of the United States

CLEMENT A. ST. HILAIRE,

Petitioner,

v.

GRACE A. ST. HILAIRE,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Judicial Court Of The State Of Maine

BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR CERTIORARI

ROBERT S. HARK
TROUBH HEISLER
511 Congress Street
P.O. Box 9711
Portland, Maine 04104-5911
(207) 780-6789
Counsel for Respondent

April 8, 2004

BEST AVAILABLE COPY

QUESTIONS PRESENTED

Was there any federal question decided in the courts below?

Does this court have statutory jurisdiction under 28 U.S.C. § 1257?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
I. PROCEDURAL HISTORY	1
II. MATERIAL MIS-STATEMENTS OF FACT IN PETITION	3
III. ARGUMENT	3
A. THERE IS NO STATUTORY BASIS FOR JURISDICTION	3
B. NO ISSUE COGNIZABLE UPON REVIEW ON CERTIORARI WAS RAISED OR DECIDED BELOW	4
C. THE DECISION BELOW IS SUPPORTED BY INDEPENDENT AND ADEQUATE STATE GROUNDS	4
IV. CONCLUSION	5

TABLE OF AUTHORITIES

Page

CASES

Black v. Cutter Laboratories, 351 U.S. 292 (1956) 5

Benz v. New York State Thruway, 369 U.S. 147, 82 S.Ct. 674, ___ L.Ed.2d 634 (1962) 4

Detroit City Railway Company v. Guthard, 114 U.S. 133, 5 S.Ct. 396, 28 L.Ed.2d 952 (1885) 5

Fargo v. Michigan, 121 U.S. 230, 5 S.Ct. 857, 30 L.Ed.2d 952 (1887) 5

Murdoch v. City of Memphis, 20 Wall 590, 87 U.S. 590, (mem), 22 L.Ed.2d 424 (1874) 5

St. Hilaire v. St. Hilaire, 526 A.2d 28 (Me.1987) 1

St. Hilaire v. St. Hilaire, 543 A.2d 822 (Me.1988) 1

St. Hilaire v. St. Hilaire, 567 A.2d 1349 (Me.1990) 2

St. Hilaire v. St. Hilaire, 2004 ME 13, 841 A.2d 783 (Me. 2004) 3

Wood v. Wood, 602 A.2d 672 (Me. 1992) 4

STATUTORY PROVISIONS

28 U.S.C. § 1257 3

I.

PROCEDURAL HISTORY OF CASE

The parties (Clement St. Hilaire, "Husband" and Grace St. Hilaire, "Wife") were divorced in December of 1983, and the parties each waived appeal from the divorce decree, which required the Husband to sell the marital homestead within two years. By 1986, Wife filed a motion for contempt, which resulted in an order that she (rather than Husband) sell the house. Husband appealed that order to the Maine Supreme Judicial Court, which affirmed the decision below.[1] In a subsequent contempt proceeding the trial court voided a fraudulent conveyance by Husband and found him in contempt for his efforts to interfere with Wife's efforts to sell the house. Husband's appeal from this order to the Supreme Judicial Court was subsequently denied.[2] Husband's appeal to the Supreme Judicial Court from the trial court's next finding of contempt (by then *more than twelve years* after the original divorce decree) was similarly denied, this time with a finding that:

> By any objective standard this appeal is utterly frivolous. The conclusion is inescapable that St. Hilaire has prosecuted this third appeal for the purpose of putting off the time when he will have to pay the sum of $5,558 the Superior Court on last May 10 found he then owed on the marital

---

[1] *St. Hilaire v. St. Hilaire*, 526 A.2d 28 (Me. 1987).

[2] *St. Hilaire v. St. Hilaire*, 543 A.2d 822 (Me. 1988).

> real estate and the time when the 1983 divorce judgment can be finally implemented.[3]

The Court imposed sanctions upon Husband.[4] In June of 2003, by then almost twenty years after the original divorce decree, the trial court appointed a receiver empowered and instructed to sell the property, and Husband once again appealed to the Supreme Judicial Court, in disposition of which appeal, in addition to its affirmance, the Court opined:

> Clement has previously been found in contempt, ordered to pay costs and attorney fees for frivolous appeals, and was even ordered to jail in 1992 for failure to make certain payments.
>
> We find no purpose in this appeal other than to cause further delay. Accordingly, we impose sanctions of treble costs and reasonable attorney fees against Clement. *See St. Hilaire,* 567 A.2d at 1349. In order to prevent further abuse of court processes, we also enjoin Clement from filing additional motions or appeals of Superior Court orders in this case unless a licensed attorney signs the pleading, subject to M.R. Civ. P. 11, or a Superior Court Justice approves the filing of such motion or appeal after making a preliminary determination that the proposed filing is not frivolous. *See, e.g., Spickler v. Dube*, 644 A.2d 465, 468-69 (Me. 1994) (holding that a detailed showing of a pattern of abusive and

---

[3] *St. Hilaire v. St. Hilaire*, 567 A.2d 1349 (Me. 1990).

[4] *Supra.*

> frivolous litigation may support enjoining a party from filing frivolous lawsuits).[5]

Husband now seeks review upon *certiorari*.

II.

MATERIAL MIS-STATEMENTS OF FACT IN PETITION

The reproduction of the Decision below in the Appendix[6] is materially inaccurate. The reproduction in the Appendix of paragraph 2 of the Opinion includes the following sentence: "Her efforts to do the same were *not* met with Clement's contemptuous interference . . . " [emphasis added] In fact, the opinion of the Supreme Judicial Court, reported at 2004 ME 13, states: "Her efforts to do the same were met with Clement's contemptuous interference . . . " If this Court had jurisdiction upon *certiorari*, which it categorically does not, *infra*, this mis-statement would be highly material.

III.

ARGUMENT

A. There is no statutory basis for jurisdiction.

The statutory basis for this Court's jurisdiction to review a decision of a state's highest court upon a writ of *certiorari* is found in 28 U.S.C. § 1257, which vests jurisdiction where

> . . . the validity of a statute of any State is drawn into question on the ground that it is

---

[5] *St. Hilaire v. St. Hilaire*, 2004 ME 13, 841 A.2d 783 (Me. 2004).

[6] Appendix, p. A-31.

> repugnant to the Constitution, treaties, or laws of the United States or where any right, title or immunity is specially set up or claimed under the Constitution, or treaties or statutes of, or any commission held or authority exercised under, the United States

There is nothing in the Petition that avers a statutory basis for such jurisdiction.

B. No issue cognizable upon review on certiorari was raised or decided below.

A thorough reading of the Appendix fails to disclose that any federal issue was raised, much less decided in the Maine state courts. For an example of this court's dismissal of a writ of certiorari where it appeared the writ had been improvidently granted for want of a substantial Federal question, see *Benz v. New York State Thruway*, 369 U.S. 147, 82 S.Ct. 674, __ L.Ed.2d 634 (1962).

C. The decision below is supported by independent and adequate state grounds.

The decision below is grounded wholly upon an exercise of the State court's discretion in fashioning a remedy for Husband's contumacious – one might easily say obstreperous – conduct throughout the *twenty years* elapsed since the entry of the original order for sale of the former marital residence. The juridical source of the courts' exercise of discretion is clearly found in state law, *Wood v. Wood,* 602 A.2d 672 (Me. 1992). Although there are instances where reasonable minds could differ as to whether the asserted state grounds were independent of a determination of federal

rights[7], this is indisputably not such a case. Where the decision is based wholly upon an independent and adequate state ground, this court will not exercise its discretionary jurisdiction on a petition for a writ of *certiorari*. *Fargo v. Michigan,* 121 U.S. 230 (1887); *Detroit City Railway Company v. Guthard*, 114 U.S. 133, 134 5 S.Ct. 396, 28 L.Ed.2d 952 (1885); *Murdoch v. City of Memphis*, 20 Wall 590, 87 U.S. 590, 611, 641 (mem), 22 L.Ed.2d 424 (1874).

IV.

CONCLUSION

This Husband has made every effort for twenty years to obstruct the sale of the former marital residence. This was recognized in repeated decisions of the Maine Superior and Supreme Judicial Courts, which having twice sanctioned Husband for taking frivolous appeals, resorted to the extraordinary remedy of enjoining further litigation absent certification by counsel or court sanction. This Petition is but one more effort to continue to delay and deter Wife from enjoying the remaining rights she was accorded under the decree of divorce. The Petition should be denied.

Dated at Portland, Maine, this 8th day of April, 2004.

Respectfully submitted,

ROBERT S. HARK
Attorney-at-Law
TROUBH, HEISLER
511 Congress Street
Portland, Maine 04104-5011
(207) 780-6789
Counsel for Respondent

---

[7] *Black v. Cutter Laboratories*, 351 U.S. 292 (1956).

Supreme Court, U.S.
FILED
APR 2 1 2004
OFFICE OF THE CLERK

(3)

No.03-1373

In The

Supreme Court of the United States

CLEMENT A. ST.HILAIRE
Petitioner,
vs.

GRACE A. ST.HILAIRE
Respondent,

PETITIONER REBUTAL OF A WRIT OF CERTIORARI
OF APPEALS COURT FOR THE
STATE OF MAINE

REBUTAL TO RESPONDENT'S BRIEF OF
WRIT OF CERTIORARI

Clement A. St.Hilaire
Pro-se Petitioner
P.O. Box 592
Stratham, New Hampshire
(603) 320- 3918 03885
Judith W. Andrucki
Plaintiff, Respondent
179 Lisbon Street
P.O. Box 7120
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine 04212
David M. Hirshon
Counselor Withdrawn
3 Canal Plaza
P.O. Box 15060
Portland, Maine 04112

APRIL 16, 2004

ANSWERS QUESTION PRESENTED

1.)Party Aggrieved by what is considered to be an evasion of that mandate by the State Court may be confronted with difficult procedural problems in securing an immediate second Supreme Court Review, especially if the decision on remand purports to rest in whole or in part on a nonfederal ground.

2.) Regading Appointment of Receiver, "Ex-Parte" Interlocutory Order is Ripe for review at any Point with in the Proceeding that was not a Final Order but failure of the Respondent Breach of Contract Settlement Agree ment Contempt beyond the Statute of Limitation.

3.)YES; There is now and were Federal Questions of Law The Supreme Court Mandate issued Misapprehended an Ambiguous an requested court review M.R.Civ P. Rule 60 (b) action was an Interlocutory Judgment.

4.) Where **Violation of Constitutional Law** .Principal of Contract Settlement Divorce Agreement a disobediance Contempt of Respondent in failure to sell for over 18yr, and Newly Discovered Evidence No Escrow account of and other Consequence, of Supreme Court Failure in Ruling on **"One More Asset"** beyond the Contract Agreement **Major colorable Merits equity in Controversy for Review.**

5.)After Breach and Failure in Carrying out the Expedi dious Fashion Sale A New Responsibility acted forced by Justice the Respondent to acquire under a new issue Attorney Subsequent Issue at Law of Contracts defied by Breach of Divorce Agreement as Respondent caused the Problem.

TABLE OF CONTENTS

	Page
Questions	**-i.-**
Table of Contents	**-ii.-**
Constitutional issue	**-ii.-**
Table of Authorities	**-iii-iv.-**
Procedural History of case	**1.to 2.**
Jurisdictions General Rule	**2.**
Objection To Respondent's Argument	**3.to9.**
Conclusion	**10.**

CONSTITUTIONAL ISSUES

State of Maine Constitution Article 1. Property § 6 Section 6 A	7.
United States Arbitration Act. III. 2, of 1925	6.
U.S. Constitution Amend 1, Article 1. Sec .8	6.
United States Fourteenth Amend	4.
Uniform Fraudulent Trans. Act.	6.

TABLE OF AUTHORITIES

CASES	*PAGES*
Austin v. Austin 2000 Me. 61 ¶ 4, 748 A 2d 996,998,	6.
Boivert v. Boivert 672 A 2d 96,97, n.2 (Me. 1996).	4.
Donald F. Gordon Cum. 03-369 Me. Feb. 26 2004	2.
Cf. Fitzgerald v. Trueworthy 476 A ed 183, (Me.1984)	2.1.
e,g, Md. Fam. Law Code Ann. 8-210(1991) Wis. status. Ann. 767, .255 (7) (West Law Supp 1995	6.
Edwards v. Jenkins (1932) 214 Cal. 713,720, Witkin, (supra at section 622)	5.
Estate of Coleman 395 N.E. 2d 1209, 1211 (Ill. App. Ct. 1979)	2.
Farstveet v. Farstveet 2000 ND. 189, ¶ ¶ 23,24, ND.C.C. ¶ 13-02-05 (2)	6.
First Trust Joint Stock Land Bank v. Cutler	6.
Hart v. Terry L. Hopkins, Inc. 588 A 2d 1187, (Me. 1991) Pg. 1190.	1.
Hedges v.Dixson County, 150 U.S. 182, 192, (1893)	7.
Id. at 18-23, 70 A 2d 870-72	2.
Id. at. ¶ 24	7.
Id. at 472, 473	3.
Id. at 185-86	4.
In Burrell v. McCray 426 U.S. 471 (1976)	3.
Knudson v. Weeks D.C.Okl. 394 F. Supp 963,976	8.6.
LaShown v. Barry144 F 3d. 847, 853, D.C. Cir. 1998)	7.
Liberty v. Liberty Cum-00-292 Jan.30,2001	4.
Linscott v. Foy Yor-97-703 Aug 11, 1998	3.
Mennonnite Bd. of Missions v. Adams 462 U.S. 791,800. (1983)	4.
Murphy Bros. Inc. v. Michetti Pipe Stringing Inc.	3.
Palanza v. Lufkin 2002 Me. 143 Cum. 02-134 Aug, 22 2002	6.
Plourde v. Plourde 678 A 2d 1032,1035, (me.1996)	4.
RBK. Caly Corp. Brewer Water Dist. CV-94-555 (Me. Super. Ct. Pen. Cty. Dec.23 1994)	7.

TABLE OF AUTHORITES

CASES	*PAGES*
Saunders v. Kenpner (1895 Tex. Civ. App. 32 S.W. 585 (July 3, 1986)	9.
Stainback v. MoHock Ke Lok Po. 336 U.S. 368, 370,-71 (1949)	3.
Tony B. Bahnan vs. PHNB. Realty Inc. No. 98-P-0610	4.
U.S. (Sixth Circuit Orchard Group v. Konica Med No. 96-3686 App. 98 A 0041P	5.
Wardwell v. Wardwell 458 A 2d 750 (Me.1983)	1.
Supreme Court Practice Ch. .4 pg. 261	3.
Appeals Act. 1958	3.
Black's Law Dist. (4th ed. 1951)	8.
Black's Law Dict. Sixth ed.Pg. 527	8.6.
Feeder Analysis IV. Problem Canon 9	8.
3 A Corbin Contract § 611 (1960)	5.
3 AM. Jur. 2d § 19,	5.
37 AM.Jur. 2d § 12 (1968)	1.
59 A AM. Jur. 2d	6.
79 A.L.R. 2d 1390 § 22	3.
4 M.R.S.A. § 105 (2003)	7.
14 M.R.S.A. § 2002 Chapter 403	8.
14 M.R.S.A. § 6051 (2003)	7.
M.R. Civ.P. 4 A (c) 4B (c) Rule 4 A	3.
M.R. Civ.P. Rule 60 (b)	9.
Partition § 226 (1987)	9.
Professional Code DR. 2-102 (a) (1.) (2) (3) (4.) and (6);DR. 20102 (C) and (D) EC 2-103.)	8.
Rental § 11-102	9.
Rental Disclosure of Purchase [1991, c. (new).787].	9.
U.C.C. § 2-312	6.
28 U.S. § 1254	3.
28 U.S. § 1292 (b)	3.
350 U.S. 198, 208,	6.
526 U.S. 344 (1999)	3.
United States 365 U.S. 857, 858,	5.

PROCEDURAL HISTORY OF CASE

The Appeal under M.R.Civ.P. Rule 60 (b) of the Maine Law Court Decision of February 5, 2004 Order appoint ing Ex-parte a Receiver, an The Withdrawal of Defend-ant Counsel refusal to Appeal the decisioned Order.The Newly Discovered Evidence of the Respondent's hadn't had any Escrow Account of Revenue,Was discovered in the Deposition.Respondent stated "their's no escrow of fund"Conversion 18 years far beyond the essence time, but with intent of disobedient to the courts.This Being a Contrary to Expeditiously Fashion of Selling Property. Respondent eccentricly refused, to live in the home, her self, but choose on Capitalized the advantage or profits for **eighteen years** Subsequently collected a net income monthly. 37 AM.Jur. 2d Fraud and Deceit § 12 (1968) The Divorce original Decree December 7, 1983 Contract Agreement,That provided Scott a home youngest son Enjoyment The decree never Appelled by neither Party That execution of Settlement Agreement in the future date and affirmance of the specific performance judgm ent of the Marital Property to be finalized.

Merit of Case Facts Colorable

The Maine Supreme Judicial Court Decided May29 1987 Wardwell v. Wardwell Court States;(That did not occur in this case. The Court did not make any change in that distribution,but properly exercised its power to enforce its previous divorce decree.Cf.Fitzgerald v.Trueworthy 476 A 2d 183 , Me. 1984)"Provision of divorce judgment ordering sale of Marital home imposed in personam ob ligation to sell property without affecting a transfer of Marital Assets.")Meritorious defense Colorable and not and are true and not frivolous. Title Property Interest. Hart v. Terry L.Hopkins, Inc. 588 A 2d 1187 1190 (Me.) (1991)The Law Court Failure in Scrutinizing carefully all aspects of disposition to ensure that each aspect was in a Commercial reasonable "Id, U.C.C.c.mt.2. retail value

(Parallel) to St.Hilaire v. St.Hilaire case at bar,) Intention Future severance of the Joint Tenancy that was never a Final Decree,and Compounded effect *After* Post divorce egregious conduct of Respondent's Breach Contract of Divorce ArgreementThat refusing to sell and continued Leasing of property"Use"**An Other Asset** under Breach of Conditions The July 30, 2002 of the Justice Delahanty J. informing the Respondent to Acquire Counsel for her own after the Breach of the original Decree agreements that the Petitioner is not responsible for her Action her failure in not selling the Marital Property with Unjustifiable Enrichment of Unfairness rings hollow as Income. Donald F. Gordon Cum. 03-369 Me. Feb.26, 2004 There fore was never a Final Judgment but an agreement that affected by a divorce and held that each party was entit led to a "one-half interest" in the Partitioned real estate of Id. at 18-23, 70 A 2d at 870-72 Tenancy in common .

Jurisdictions General Rule

That Divorce itself does not terminate a joint tenancy, but when the parties express their intention to severed the joint tenancy or engage in conduct that is inconsistent with a joint tenancy **is severed.**(Respondent breach) The Maine precedent most analogous to the Situation is Fitzgerald v. Trueworthy, 476 A 2d 183 (Me. 1984).That The Estate of Coleman, 395 N.E. 2d 1209, 1211 (Ill. App. Ct.1979).these Jurisdictions.Respondent unfulfilled duty obligation imposed upon her by the Shifted July 7, 1986 Responsibility By Justice Delahanty IIThe Petitioner was deprived of a Constitutionally fail to protect the interest without due process of law when Court Order him pay fees and cost without first holding Evidentiary hearing. RECEIVERSHIP ISSUE ; was not part of the Settlement Agreement, but instead abuse its discreation. Accepting as a favor when in Contempt of Court violating specific performance judgment the agreement included both an clauses "boilerplate" of Specificness of Limitation of the

OBJECTION TO RESPONDENT'S ARGUMENT

Exclusive Possesion Time. See: Linscott v. Foy Yor-97-703 Aug. 11, 1998. Divorce Source Statute of limitation "But nothing in the Interlocutory Appeal Act itself and depart from its usual rules respecting review of interlocutory judgments."Supreme Court Practice Ch.4 pg 261 **4.19** Effect of Interlocutory Appeals Act. of 1958, 28 U.S. § 1292 (b).The Court granted review (Murphy Bros,Inc. v. Michetti Pipe Stringing Inc. 526 U.S. 344 (1999).
79 A.L.R. 2d 1390 § 22. Appointment of Receiver is not subject to review on appeal from a final Judgment. § 22 Illinois American Radiator Co. v. Walker (1934) 276 Ill. App 150 ,and First Trust Joint Stock Land Bank v.Cutler (1938) 293 Ill. App. 354, 12 N.E. 2d 705 Both infra.

The Jurisdiction 28 U.S.C. § 1254.

" Stainback v. MoHock Ke Lok Po. 336 U.S. 368, 370-71 (1949) InThis case a direct appeal was taken to Supreme Court form a Judgment of a Three Judge district Court in Hawii. To gauard against as frustration of review by the Supreme Court's refusal to accept jurisdiction over the appeal, the appellants took a timely appeal to court of appeals. The Court then issued a Writ of Certiorari before Judgment " to avoid further furtile proceedings" heard the case on appeal and on certiorari at same time. In Burrell v. McCray 426 U.S. 471 (1976) In (per curiam) Id. at 472,473 Justice Brennan and Marshall dissented on the grounds That:such dismissals are proper only when more intensive consideration of the issues the record is record in the case that attend full briefing and oral argu ment reveals that conditions original thought to justify

Granting the Writ of Certiorari are not in fact present. [Ex-Parte] Hearing on attachment M.R.Civ.P.4 A (c)and 4 B (c) are as follows: RULE 4A Attachment (c) [Writ of Attachment]Service...No property may be attached and unless such attachment for a specific amount approved

by order of the court. Except as provided in subdivision (g) of this rule [exparte hearings on attachments],order of the approval may be entered only after Notice to the Defendant and hearing and upon a finding by the court that it is. Liberty v. Liberty Cum. 00-292 Jan. 30 2001 Orders for attachment process are immediately appeala ble a exceptions to the final Judgment rule. See; Plourde v. Plourde 678 A 2d 1032, 1035(Me. 1996)(Citing Boivert v. Boivert, 672 A 2d 96, 97 n.2 (Me. 1996) Tort Cases.

PETITIONER FEE HALF PROPERTY INTEREST

The relevant facts Neither received prior Notice of sale Violated its due process rights, afforded by **Fourteenth Amendment to the United State Constitution.**

relied on Mennonite Bd. of Missions v. Adams 462 U.S. 791, 800,(1983) States:"in which the Supreme Court that "[N]otice.... by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding whch will adversely affect the liberty or property interest of any party Given that the defendant possesed a fee interest in the property ibid. See Tony B. Bahnan vs. PHNB Realty Inc. No. 98-P-0610. no merits Obligation Imposed;"Fitzgerald; The Divorce Judgment in Imposing that personal duty upon both parties was completely blind, to the exact status, of the legal title to the premises; it made no difference whether either one was the sole title holder or they held it as tenants in Common or joint tenants.When the time came to effect of the even division, whichever of them held the legal title in whole or part was Obligated by Court order to carry out the partition by sale. Id. at 185-86."

The Procedual History being incorrect of putting off the Alledged amount 5,558 .Which if made proper research That the*"After"* Post- Divorce payment for the Order of Default Justice Order,is Jurisdictional procedure Change of Date. Superior Court Aug.5,1992 byJustice Alexander

J.,Now the Law Court Justice) Forced the Petitioner pay with incarceration Post-Divorce Investment $ 11,119.11 Respondent Capitalzed on Concealing Rental reaping collected the benefits as disobient, Court order Escrow accounts Frudulent conduct of the Property.

The Petitioner's **Constitutional rights in his Defense.** On"Tantamount"Title to Real Estate Involved on their Property Rights,Taken by Judge an" Ex-Parte" Order of Receivership in the Justice Delahanty J.II on Jun18,2003 the Petitioner being Co-owner one half interestTitle to Marital Home."If a person entitled to there possesion of Personal Property demands its the return, under dominion and control, that was unjustified the refusal to give the property back is Conversion. see; Edwards v. Jenkins (1932) 214 Cal. 713, 720, Witkin, (supra at section 622,) United States 365 U.S. 857, 858.... 3 AM. Jur. 2d § 19, 3 A Corbin Contract § 611 (1960). U.S. (Sixth Circuit Orchard Group v. Konica Med. Corp. No. 96-3686 App 98 .A 0041P. No specific years.amount Stated Fraud.The Petitioner's Appeal to the Maine Law Court early conserving timely rights to action of the Receiver While under Appeal sold the Property.Petitioner right's were but Absolute where he owned half to Bid-in prior before the Sale, Never received any"Notice" ludicrous of the purchaser Option, nor was Property ever Apprai sed for a fair market violation it was the Receiver duty. The Dec. 7, 1983 Divorce Decree was agreements that an that Stated:(The Marital Property results be[S]old in a Commercial manner **Bring the best possesible price.** Receiver"Fiduciarious" violated relationship to Seller's. The Property was sold to buyer at bay in 17 days at real low price $ 79,500.00 with adjacents lots unaware to the Petitioner.building lots 410 land was assesed at20,000.00 they gave the home away.That Justice Cole J. Stated;on July 8, 2003,(I will give you a the right to bid on Home). The appeal was filed in 24 days during February, in the

Maine Law Court.The original Dec. 7,1983 Divor.decree States;"The Defendant shall not suffer waste to said premises nor encumber the same in any manner without the expressed written consent of the Defendant")Rental was waste There shall be no" Encumbrance "One that has a legal Claim of consistent with pursuance of the fee by conveyance."That Obstructs action for the debts of" Co-owner half Interest" in the property See; Knudson v. Weeks D.C. Okl. 394 F. Supp.963, 976, a Warranty of title purchase U.C. C. § 2-312 Black's Law Dict. Sixth ed. Pg. 527 Title to Real Property of the Petitioner's Rights that Sold, to a Third Party.The Fraud Transfer contrary to the Contract in Divorce U.S. Constitution Amend,1, Article 1,Sec. 8, Uniform Fraudulent Trans Act.Farstveet Judge see; Farstveet 2000 ND. 189, ¶ ¶ 23, 24, N.D.C.C. ¶ 13-02-05 (2) Receivership Property (a.) "Substance"of "Extrinic"*After* of Post Divorce Controversy Palanza v. Lufkin 2002 Me. 143 Cum. 02-134 Aug. 22, 2002 . 59 A Am.Jur. 2d Partition § 226 (1987).Unjust Enrichment. (b) "Procedure"a agrreived"party Having 30 days to Appeal Maine Law (**c.**) Conversion under Contracts sufficiently go to the Merits of the [350 U.S. 198, 208] United State Arbitration Act.III. 2, of 1925 that makes the matters one of **"Substance"**of the Revenue deprived 18 yrs enjoyment"use"**(d.)**sold while under Law Court Appeal were aware of the " Silent" of Statute Limitation Being (Three Years) the decrees silence"Ambiguity"of Exclusive Possesion, The Divorce Source law exceeds reasonable Whether is Ambiguious is a Question of Law.Austin v. Austin 2000 Me. 61 ¶4, 748 A 2d 996,998,time(Where Defendant had only two years Exclusive.) e. g.Md.Fam. Law Code Ann. 8-210 1991 Wis. status. Ann 767 .255 (7) (West law Supp 1995).**(e.)**The July 7, 1986 "Shifted"Resp onsibility to sell,was "Silent a Reciprocal"the Rental paid by the Defendant of $ 200.00 a Month due on the tenth of each month of Respondent'"Identical demand.

Respondent failure in paying $ 200.00 month"Use"and the enjoyment an IRS. Tax Deduction that exceeded 18 years abuse to the Petitioner refusing to sell in denial of ever paying 200.00 a month to defendant of the equity in the Property.(f.)The Receivership was waste in funds and Caused more conflict of Interest never were discus sed with the Defendant, The Contract Decree of Dec. 7, 1983 was in opposition of the Contract Making All the Above Breach of Contract Rights.

4 M.R.S.A. § 105 (2003);14 M.R.S.A. § 6051 (2003) At Bar similarly: The Defendants now object to the terms they negotiat."Ex-parte"Petition,rely on cases very different from this case and argue that the doctrine of seperation of powers requires of rescinding authority they them selves requested,See; Hedges v Dixon County, 150 U.S. 182,192,(1893) (Court of equity cannot enforce Contract void at Law); LaShawn v. Barry, 144 F.3d 847, 853 D.C. Cir.1998).Maine in an effective manner according to the provision of the Consent Decree and Settlement Agreement See; RBK Caly Corp.BrewerWater Dist.CV-94-555 (Me. Super. Ct. Pen. Cty. CDec. 23 1994).

State of Maine Constitution Article 1. protecting prop erty Section; 6.nor be deprived of property,but by judg ment of his peers,or the law of the land.Section 6 A dep deprived thee or property without due process of law nor be denied the equal protection of the law in nor be discriminated against in the exercise thereof.. Id.at ¶ 24. Plaintiff Counselor Judith Andrucki Esq.Violated a Pres sion rules of Code Conduct. **1.**)The counsel did not read the Original Contract in Deed of which the Law Court Affirmed the coventure in Contract Agreement, Warranting the First Rights of Real Property Merger of the Defendants "Preferential Rights"as First Optional rights with that proper"Notice of third party purchaser a not being Property Counselor know that she Breach ed the Covenantor in Contract, as agreement the never

Appealed Divorce Decree,or never read the Decree The Term" Encumber" or Encumbrance See;[Includes every right to,or interest in land which may subsist in another to the diminution of its value, consistent with passing of the fee".]Dec 7,1983 Black's Law Dictionary(4thed.1951) Warranty Quiet enjoyment.Petitioner's one half Co-owner interest. The Term its " Preferential Rights"... refers generally an right to elect to purchase property interest owned by another person upon the occurrence of trigg ering event. Property See; Knudson v. Weeks D.C.Okl. 394 F supp. 963, 976, A Warranty of Title purchase U.C.C. § 2-312 Black's Law Dict. Sixth ed. Pg. 527 real Property under the Petitioner's Rights. **2.)** Once again Andrucki Failed to read the decree Orders States Alleged alimony due to Was Denied: July 7, 1986 Delahanty II.Order Justice Page 5. Article B. States; Plaintiff's Motion for the contempt and enforcement regarding alimony payments and for arrears is is"Denied"See Professional Code of Responsibility: DR 2-102 (a) (1), (2) (3) (4), and (6); DR 20102 (C) and (D). EC 2-103.) Analysis IV. Problem 2: "**feeder**"aspect is particular importance. Ethical Character Canon 9 of the American Bar Association Code of Professional conduct Responsibility. *The attorney, therefore,has an obligation to establish necessary safeguards to eli mate even the appearance of improper practices.and an impro per relationship between him self and his Sublessee.*

Therefore Sublessee Ann Brandt within firm house and the Respondents Counsel is seeking relief under Rule11 of the Federal Rules of Civil Procedure,he has not alleged satisfaction of the safe harbor provision of that Rule. For these reasons, I ***Deny*** the Plaintiff Motion for Legal fees and expenses.

"TITLE TO REAL ESTATE IS INVOLVED"

"Property Sold to bring the Best Possible Value"

14 M.R.S.A. § 2002 Chapter 403 no appraisel whom failed to Appeal from the first order appointing a **Receiver**

Could not afterwards,upon facts appointment irregular intent, wrongful:Texas Saunders v. Kempner (1895,Tex. Civ. App.) 32 SW.585. (July 3,1986 **(a)** the Justice stated; (she could rent it for the Winter of 1987, so it would not Freeze Up.) § 11-102 there were no Rental Disclosure of purchase agreements terms [1991, c.(new) .787].

"Uniform Commercial Code "Pending sale, Defendant shall pay to plaintiff the sum of two hundred a 00/100 dollars ($200.00) per month **"as rent"** on or before the tenth day of each month, commencing July 10, 1986.) (**b.**)The Defendant not having ever receiving the Tenth of every month since Aug. 5, 1986 Shifting " As Rent " Due the Defendant since accumulated to *"after"* divorce existing an open ended Contract The Maine Supreme Courts Failed to address the **" One More Asset"** rental in the original decree is beyond dought Within Review M.R.Civ.P. Rule 60 (b) of the Decree Original in Dec. 7, 1983 never [be adjusted] but ignored about future use " Enjoyment .**Major Controversy;** The Defendant forced to pay the Plaintiff $ 200.00 Month due "Use"Responsibility Shifted the resulted 228 Months. $ 200.00 x 228 = $ 45, 600.00 after divorce payment of $ 11,119.11Total $ 56, 719.11 with interest to date due. 2 American Law interest of Property 10,22,28,- 32 (1952).

(1.) I, Petitioner Demand the Full Amount of Proceeds of the erroneous sale and Court fees the Respondent,to Pay all cost of Courts and Attorney fees.

(2.) I,Hold the Receiver,Norman J Rattey and Judit And rucki Esq. And Ann Brandt Esq. David M. Hirshon and Broker FirmAll violation of Uniform Commercial Code wareThe Marital Residence was to be sold in A Commercial Manner I,Am entitled for the loss Constitutionally of And Liability to Lapionte All Five Parties are Charge with"Three times Value "for Negligent sale in the duty of Receiver, Respondent Broker well aware.

"Char'e d'affaires ,consule"

10.
CONCLUSION

The Writ of Certiorari for a good Reasons stated above This Court should Grant a Review of the Decision that State Maine,Law Court Appealing the Reciever"exparte order"Interlocutory Action of Title to Real Estate Right, Involved, pendente lite. Contempt, Counter Action, in the lower Court,an Defendants' Counsel was Retained Conflicting fidelity, Irreconcilable withdrawn violated professional code of conduct under set-off claim.Newly discovered evidence of Intentionally concealed Deprived Fiduciary Account expressed Escrow order Fraud, the Judged, Immediate Sale, intended ,Laches of 18year rental income as unjust Enrichment abusd "substance" of merits of "question of law" in Prejudice [a]mended, the Contract,purchase plaintiff"sought unite"that Judge violated error the Constitutional Title Colorable Rights merits having Interest in Property.

Respectfully submitted,

Clement A.St.Hilaire
Pro-se Petitioner
P.O. Box 592
Stratham, New Hampshire
(603) 320- 3918 03885
Judith W. Andrucki
Plaintiff Respondent
179 Lisbon Street
P.O. Box 7120
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine 04212
David M. Hirshon Esq.
Three Canal Plaza
P.O. Box 15060
Portland, Maine 04112

Dated: April 16, 2004

(4)

No. 03-1373

Supreme Court, U.S.
FILED
JUN 4 - 2004
OFFICE OF THE CLERK

In The

Supreme Court of the United States

CLEMENT A.ST.HILAIRE
Plaintiff

vs.

GRACE A. ST.HILAIRE
Defendant

PETITIONER FOR WRIT OF CERTIORARI
OF APPEAL COURT FOR THE
STATE OF MAINE

PETITION FOR A REHEARING OF WRIT OF CERTIORARI

Clement A.St.Hilaire
Pro-se Petioner
P.O. Box 592
Stratham, New Hampshire
(603) 320-3918 03885
Judith W. Andrucki
Plaintiff, Respondent
179 Lisbon Street
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine, 04212
David M. Hirshon
Counselor WithDrawn
3 Canal Plaza
P.O. Box 15060
Portland,Maine 04112

May 30, 2004

QUESTIONS PRESENTED

Whether an"*Aggrieved* Party" with late Notice Ex-parte Receivership order filed with 23days untimely filed that within the Statute of Limitation Being Aggrieved party deprive of Constitutional Fed. Proc.,Thirty days Appeal

Whether that Sole Indentity of tenant-in -common that Generalized post divorce division,Its now an individual partnership where one half Interest of whole property a Constitutional Issue when its Encumber, the separate interest without consent, an without affecting [I]nterest of other Co-Tenant,severed in the Contract Transfer of a"Lease hold,"Credible evidence elements that fraud,in separation interest without written consent when Bond for a deed,extinguish Expeditiuos fashion as excuse that refusal not selling when the Plaintiff established clouds on Title of contingency 18 plus years of Contempt.

Whether there is a Absolute Rights to purchase Plaintiff Halh [I]nterest denies in the whole bundle of Right's in being Contrary to a Constitutional Jurisdition property rights involved, whether any State can deprive the due process of or that encumber their separate interest.

Whether Constitutionally Property demands its return, under dominion and in control that was unjustified refusal to give the property income back is Conversion.

Whether the Defendant is now a Co-tenant owner with the New Owner,was not at Closing or ever signing his free will and Deed unalienable, Where the Receiver in a Fraudulent act of Technical Mistake Joint Tenant a deed that was Abolished by Law Court,Tenant in- Common. Were Receiver Fiduciary duties in not Appraising property and was sold $ 50,000.00 below Market Value.

TABLE OF CONTENTS

Pages

QUESTIONPRESENTED.....-i.-

TABLE OF CONTENTS.....-ii.-

TABLE OF AUTHORITIES .....-iii.-to-vi.-

PROCEDURAL HISTORY OF CASE.....1.to 2.

A.) STATUTORY JURISDITION IS CERTIORARI..... 3.

B.) RECEIVER NEGLIGENCE IN FIDUCIARY DUTY 6.

ARGUMENT .....7.to 8.

C.) CONCEALMENT, AND CONVERSION RENT.....8.

CONCLUSION.....10.

APPENDIX

ORDER FOR PARTIAL DISBURSEMENT.....A-11to A-12
OF PROCEEDS OF SALE RESIDENCE

ORDER ON ATTORNEY FEES AND COST..A-13 toA-15

TABLE OF AUTHORITIES

PAGES

Ahmed v. Rosenblatt118 F.3d. 886, 890, 1st.Cir.1997 4.
Andis v. Schick Dry Shaver Inc. No. 6303 9.
(94 F.2d 271 7th Circuit Court Key 351.50 9.
Austin v. Austin 2000 Me. 61 ¶ 4, 748 A 2d 996, 998, 9.
Boisvert v. Boisvert 672 A 2d at 98 n.3 5.
Cary v. Talbot (1921) 120 Me. 427. 115 A 166 (a) 7.
Campbell v. Blanck 17 Ken App. 2d 799, 804, 4.
844 P.2d 75 (1993).
Colby v. York County 442 A 2d 54 Me. 1982) 9.
32 Cornell L.Q. 222 (1946) annos, 8.
Cyr. V. Cyr. 432 A 2d 793,798 Me. (1981) 6.
Demoulas Super Mkt. v. Peter's Mass. App. 9.
370 N.E. 719.9.
Donald F. Gordan Cum. -03-369 2/26/2004 Me. 23 3.
Edwards v. Jenkins (1932) 214 Cal. 713, 720, 9.
Witkin (Supra at sec. 622,
e.g. Md. Fam. Law Code Ann. 8-210 (1991) Wis 9.
Status Ann. 767 .255 (7) (West Law Supp. 1995)
Freitag v.McGhie 821, 133 Wn. 2d 816, 947 P.2d 1186 3.
Gammon v. Verrill 651 A 2d 831 9.
Harris v. Shaw, 244 Ark. 150, 272 S.W. 2d 53 (1954) 7.
Inecto Inc. v. Higgins D.C.N.Y.21 F.Supp. 418 Arm's 8.
In re Armching 255 Ill. App. 3d 844, 6 8.
25 N.E.2d 1108, 1993
In re Dickinson 111
N.C.108, 15 S.E. 1025
3.
In re Came 129 N.H. 544, 548, (1987) 6.
In re Joshue B. 2001 Me. 115 ¶ 10, 776 A 2d 1240,-43 4.
Id. at XCII. 5.
Jeffrey Ackerman v. Theodore M. Hojnoewski 9.
2002 Me. 147 Aug 27, 2002 (1) a. Fed. Mass.
Adv. Sh. (1975) 2052, 2060,
Jacques v. Brown 609 A 2d 290, 292-3 (Me. 1992) 5.
Kapler v.Kapler Pen. 00=86-2000 Me. 131 July 2000 8.

TABLE OF AUTHORITIES

	Pages
Klein v. Rancho, Montana De Oro Inc. C.A. Cal. 263 F 2d 764, 771, Proc.	4.
Knox & al. v. Silloway Vol. 1.201 page 209, (1833)	7.
Kurker v. Hill 44 Mass. App. Ct. 184,189, 190, 1998	8.
Liberty v. Liberty Cum-0-292 Jan.30,2001	5.
Lipman v. Thomas 143 Me. 270 61 A 2d 130 (1948)	7.
Louis Dryfus Corp. v. Butler, 496 F 2d 806, 808 (6th Cir.(1974)	4.
Mannix v. Portland Telegram 144 Or. 172, 23 P.2d 138,	4.
McGhie McMaster RCW. 19.40.091	2.
5 Miller ¶ Starr, Cal. Real Estate (3d.ed.2000 § 12:11, 12:11,pp. 22-24	3.
5 Miller ¶ Starr,Cal.Real Est.supra § 12:35pp. 74, 75)	6.
(9) Mitchell 28 BTA-767 (a)	9.
2 Mudd. ch.232 New 1. Pr. 88;8 com. dig. 890;18 Vin. Ab. 160.1 Supp. to Ves.Jr. 455;2 id. 57,58,74, 75, 442, 455 "Bou.Inst Index"h.t.	7.
Newcombe 54 TC 1298 Part 7 Leasing	9.
Palanza v. Lufkin 2002 Me. 143 Cum. 02-134 Aug. 22, 2002	8.
Pergrem v. Smith 255 S.W. 2d 42 (Ky. App. 1953)	7.
Phillips v. Eastern Maine Med. Ctr. 565 A 2d 306, 308 (Me. 1989)	4.
Pullen v. Hutchinson (1845) 25 Me. (12 Shep) 249. (I.R.S.) *id.* at 52. *id at* 57 *id.*at 426, 297 A 2d 662	8.
Re-Rolfe Fed. (F.B.C.D.C. Mass. 25 Ber. 89 affd. affd. (CAI) 710 F 2d-1 (1983)	7.
Ross v. Gould 5 green 1.204	7.
Rupp v. Kahn supra 246 Cal. App. 2d at p. 195 Fraud	8.
Schoenfielf v.Norberg (1970) 11Cal.App.3d 755,765	3.
Shapira v. Budish 275 Mass 120, 126, 175 N.E. 159,161, (1931)	3.

TABLE OF AUTHORITIES

	Pages
Shapiro v.Wilgus 287 U.S. 348,355 (1932)	3.
Spinner v. Nutt, 416 Mass. at 556,	8.
State v. Grant 487 A 2d 627, 629, (Me. 1985)	8.
Story, Bailm Sec. 620, 621:	7.
Terry v. Little 101 U.S. 216 25 L.ed. 864 (1879)	7.
Tittsworth v. Chaffin Mo. App. 741 S.W. 2d 314,-17	4.
Thomson v.Anderson 107 Utah 331, 153 P.2d 665-66,	7.
U.S. (Sixth Circuit Orchard Group v. Konica Med. Corp. No. 96-3686 App. 98 A oo41 P.	9.
Van EPS. v. Johnston 553 A 2d 1089, 1091,(Vt. 1988)	8.
Appeal and Error 1994, 1003 (9.1)	9.
14 A.L.R. 2d 598 (1950)	8.
100 A.L.R. 2d 1094 (1965) § 6 ßection 10	8.
76 A. L. R. 864 (1932)	8.
128 A.L.R. 1289 (1940)	8.
133 A.L.R. 1311 (1941)	8.
3 American Property Law 12.45 (casner ed. 1952)	8.
3 Am. Jur. 2d § 19	9.
3 A Corbin Contract § 611 (1960)	9.
34 AM. Jur. 2d 6291 a	9.
§ 11 Uniform Fraud Conveyance Act. and § 1-103	8.
§ 11 U.S.C. § 544 (b) Section 502	8.
28 Act. U.S.C. § 2412 (d) Evidence sufficiency	8.
U.C.C. § 2-312	8.
U.S. Arbitration Act III. 2, (1225) [350 U.S. 198, 208]	9.
U.S. Const Art. 1-9 an Art. 4-17 Due Process	9.
U.S. Const Art, III of (1789)	3.
U.S. Const.Amendment Sixth	4.
U.S. Constitutional Law Aggrieved Party	4.
U.S. Const. Amend XIV § 1. {1}	6.
U.S.Constitution Rights Art.1.XIVAmendment [1868]	2.
United States 365 U.S. 857, 858,	9.
U.S. Code Title 28 Frivolous	4.

TABLE OF AUTHORITIES

	Pages
U.S. v. E.I. dupond deNemours and Co. 316, 81 S.Ct. 1243, 6 L.Ed. 2d. 318	2.
Federal Court Act.	3.
Maine Const. Article 1,Art.1. Sec 6-A {2} Sec.6	7.
Maine Const. Art. 1 § 6-A § {2} Equal Prot.	6.
Maine Uniform Partnership Act.	7.
14 M.R.S.A. § 2002 ch. 403	8.
14 M.R.S.A. § 3571 et seq. Maine U.T. Act.	8.
14 M.R.S.A. § 6322	9.
14 M.R.S.A. § 7505 (1980){6} 3Times Forfeit Amount	8.
19-A MRSA. § 953 (9)-(1998)	3.
M.R. Title 33 § 953 Ch. 17 Rent recovery	9.
M.R. Title 33 § 159 note 5	7.
M.R. Title 33 § 176 ch 7:I.	8.
M.R. Title 33 § 201-A R.S. ch. 95 § 5	8.
M.R. § 46.2	2.
M.R.S.A. § 1851 Amend Art 2.	4.
M.R. Civ.P. P.L. 2001 ch.17	4.
M.R. Civ.P. 66	2.
M.R.Civ.P. Rule 59	6.
M.R. Civ.P. Rule 76 D	6.
Moore's Par. 110.18 (IRC) § 1031 (a) (1) Invests.	9.
Civil Code § 3440.	2.
RCW 19.40.011 (12) "RCW. 19.40.011" (12)Transfer.	2. 3.
RESPA Law	1.
Rule 4 (d) (2)	3.
Civ.P. Rule 10 (a)	3.
Civ.P. Rule 60 (b)	3.
Black's Law Dict. sixth ed. pg. 65.14	4.
Black's Law Dict. sixth ed. pg. 478	2.
Black's Law Dict. sixth ed. pg. 527	8.
Black's Law Dict. sixth ed. pg. 668	5.
Contempt enforcement Form 9.31	2.

PROCEDURAL HISTORY OF CASE

Petitioner, Clement A St.Hilaire,Solely half owner responsible Indendity in Partnership Relation in the Marital property as**"Tenant-in-Common"**on May 29,1987.There is **no longed the Divorce Settlement and division**.That Original divorce decree December 7,1983, Agreement is that either Parties,Never Appelled.Its been over 21year since the property division became Partnership and has Same last Name,but not to be characterize by the origination in common logical individual distinct Partner in co owner, Post-After the Divorce Civil Action.Plaintiff's contempt behavoir transfer severed Joint Tenant.Court that "Shifted" Fiduciary Responsibility and the house to be sold by Respondent. provided by the Court Marital property,Wardwell"did not occur in this case but Court exercised"What Cf. Fitzgerald v.TrueWorthy 476 A 2d 183.(Me.1984)The Defendant's Counselor with drew by Irreconcilable.July 8, 2003 Justice Cole J. order Honored Receiver Failed to Appraised the Property Sold on Dec. 11,2003 for $ 79,500.00 Dollars, While under Automatic Stay of Appeal by the Law Court,$ 50,000.00 below the Market Value.The up date Market analysis later sales in the same block of $ 144,000,an 115,000avg. 129,500.00 Receiver signed the Exercusion without the Defendant being there,Contrary to the RESPA. Settlement closing. contrary toTenant in Common Absolute purchase right preemtive acquiring Plaintiff's half interest. May 4, 2004 Justice Delahanty III J held a hearing on distribution of proceed Denied any open Testimonial Hearing, but of Fees only. Not to discuse or cross examine wittness nor Distribution,was of 80 % to Plaintiff. 20 %to Defendant.

CASE ISSUE AND MERITS COLORABLE FACTS

"Engaged in Business" The Procuration that Attorney David M. Hirshon Esq. J.D. of Property Law, had Filed an Action on Nov.21,2002 Plaintiff contempt Court.

Order of Aug.7, 1986 (Abolished the Decree) ExhibitA for Failure 18 yrs 9mos Carry out the Sale.

1.The Plaintiff failed and,or refused to carry out the sale of the marital premises in an Expedious fashion.

2.The Plaintiff Encumbered the Marital residence by entering into bonds for deed,with out the written consent of the Defendant.

3.The Plaintiff has willfully disobeyed the Court Orders as amended in an effort to collect income from the property but require the Defendant to pay all expenses in connection therewith. (David Hirshon *had drop the Ball.*) The Plaintiff is clearly in Contempt Court Failure to sell. **Form 9.31 Motion for Contempt enforcement Divorce Judgment Under M.R. Civ. P. 66 (Civil code § 3440.)** One whose right in property divested See; U.S. v. E. I. du Pond deNemours and Co. 366 U.S. 316, 81 S.Ct. 1243,6 L.Ed. 2d 318, the Black's Law Dictionary sixth.ed. Pg. 478. M.R. § 46.2 Error and Reversible a"Substantial" rights"Contrary Maine Supreme Court as "Substance" That"Colorable merit"resulted from Property Law the **U.S.Constitution Rights Art. 1. XIV Amendment** [1868] Section 1.No State shall make or enforce any law which shall abridge the privileges or immunities of citizen of the United States norshall any State deprive any person of their Property without Due Process Co-tenants(tenancy- in- Common.that Encumber,their separate interest without the consent,and without affecting [I]nterests,....

---

1)Here,McGhies rely on McMaster and assert because the Term"Transfer" as used in RCW 19.40.091 (a) is plain an unambiguous, we need not apply rules Statutory construction to the State. The McGhie further argue t he term"transfer"is defined in the UFTA it self and meanes the "every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or the parting with as asset,or an interest in an asset,and includes payment of money, release "Lease"and creation of a lien or other Encumbrance. "RCW 19.40.011"(12). This definition of "Transfer,"that The McGhies assert, must be read into The Statute.

A. STATUTORY JURISDICTION IS CERTIORARI
Rehearing is presented in good faith an not for delay, Other Co-tenants.(Schoenfielf v. Norberg (1970)11Cal. App. 3d. 755,765. the Sole issue in this case whether the "Transfer" means or"Lease"whether beingTransfer RC W 19.40.011 (12) 1.See; 5 Miller ¶ Starr, Cal. Real Estate (3d.ed. 2000) § 12 :11,12:11,pp.22-24)[1]. Error,unresolved, Standings "Prejudice the Petitioner"Credible Evidence. Blind fold"Mistaken in Facts"beyond discretion Justices. Maine Supreme Court Forgotten over theYears May29, 1987, Order Ruled St.Hilaire v. St.Hilaire had severed The Decree that"created Tenant In Common"Donald F. Gordan Cum-03-369 2004 Me.23 2/26/2004.

> *"One half Interest"made no difference whether either one was the sole title holder when the time came to effect the even division legal title in whole or part"*

Partnership relationship,That Court Rule 4 (d)(2)un like the cognate Federal Rule does,Massachusetts Law"That so clearly treats partners, as individuals, solely for thier purpose of Suit"See;Shapira v. Budish 275 Mass.120,126, 175 N.E. 159, 161 (1931). 19-A MRSA. § 953 (9)- (1998). In Not reviewing the Appeal under Civ.P. Rule 60 (b)to Appeal filed Untimely is question of Law"Procedural," Rule 60 (b) M.R. Civ.P. Rule 10 (a)"Title to Real Estate is Involved" Power to decide an pronounce judgment an to carry it into effect between persons and parties were before court for a decision.Power that adjudicates upon and protects the right,and interest of Shapiro v. Wilgus 287 U.S. 348, 355 (1932) In re Dickinson111 N.C.108 15 S.E. 1025. property, Primary source Federal Courts Act provided in Art. III of U.S. Const. and Judiciary of 1789.

1.)The Uniform Fraud Transfer Act RC W 19.40) does not accrue until the Claimant discovers elemments of the Action, Respondent Leased "Encumber Property"elements that "Fraud,"separation interest with out the expressed consent. Dec.1997.Freitag v. Mc.Ghie 821,133 Wn. 2d 816, 947 P 2d 1186.

(Title 28 of U.S. Code) see. Judiciary Acts. Frivolous act. action as excuse, Improper interpretation Property Law "Erors of prejudice"Court in not Reading or taken time to review"Real Property involved"at law, applied contrary to . In re Joshue B. 2001 Me. 115 ¶ 10, 776 A 2d 1240, 1243, see; also Phillips v. Eastern Maine Med Ctr. 565 A 2d 306, 308 (Me. 1989.)[1.)] Judicial Proceeding Any proceeding where that Judicial action is invoked and its taken. Mannix v. Portland Telegram, 144 Or. 172, 23 P 2d138 Whether Contemptuously or Not [i]nterfering in ten yrs. Plaintiff Failure or refussal carryout sale in that expeditious fashion of Marital Property is in Contempt disobeydience.Trial. Jutice Delahanty J. Denial Testimoney Hearing A judicial examination and determination issues between parties in action, Whether Controversy issues question of law or of facts,before a court that has Jurisdiction. Tittsworth v. Chaffin Mo. App 741 S.W. 2d 314 ,317 A judicial examination,Time,Title,Interest's,and Possesion Campbell v. Blanck 17 Ken App. 2d 799,804, 844 P. 2d 75(1993)"Barred Latches" Louis Dryfus Corp. v. Butler, 496 F 2d 806, 808 (6th Cir.(1974) Whether law or facts before a court has proper jurisdiction.The Sixth Amendment, U.S. Const. afford accused the right to a "Public" trial. page 1504 Black's Law sixth ed. That and "Aggrievedperson"Property U.S.Constitutional in Law. Aggrieved Party [2.)] That if his property rights may be diminished or rights detrimentally affected the interest Klein v. Rancho,Montana De Oro Inc. C.A. Cal. 263 F 2d 764,771,Proc. Black's Law Dictionary.sixth ed. pg. 65. 14 M.R.S.A. § 1851 Amend Art.2.(Defies Contemptuous... Alledged, Interference). To the to the extent that here

---

1.)Court Pro-se complaints as liberally. Ahmed v. Rosenblatt 118 F 3d 886, 890 (1st Cir. 1997)

2.)States In any Civil action case any party aggrieved by any Judgment may appeal therefrom to the Law Court within 30 days P.L. 2001 ch.17

a reference,I believe Court;it was attorney DavidAustin said he though the- re was a Cloud..... on the Title..... I feelthat the courts order satisfied that"Mr.Hirshon Esq. State;"I absolutely agree So-"Court States: art 7."If that is not in the Registry, I can understand why that situation exists.(Reference order of May 29,1987")Mr.Hirshon "Right So that's why I prepared this order."et cetera,.et cetera "-and Title to real estate is Vested"that just bring us to what your orders say,"prepared an Abstract..... of divorce decree"So,the before at least in connectionwith any if title matters there won't be any cloud.or any dispute as to who owns the property.It's these two individual's as tenants-in common.

Retained Severn Beliveau Esq.Defendant Dec. 05,1996 Superior Court Civ.81-152."Table of Contents" Docket Entries The last dated of entry was **July 20,1993**,Present Dated of **July 25, 2002** Plaintiff Filed Letters that caused the action defendant was not served "Notice" pending Court July 30, 2002 Fraudulent assault Contract decree of a rental client, an no consideration,hardly an earnest purchaser.The action pursuant July of 2002,defendant is only to his Defense.[1]) Boisvert v. Boisvert 672 A 2d at 98 n.3The party must not only show a likelihood of success on the merit but moving that she is reasonably the likely to recover amount at least equal to the amount requested attachment."(at bar there were no liens) See; Jacques v.Brown 609 A 2d 290, 292,- 93 (Me.1992)See; Liberty v. Liberty Cum0-292 Jan. 30, 2001.There was no delay **Sale was Pending on two counts** Under **Bond** for a Deed, **Second Count** abstract Failure and Negligence Robert Mullens not being recorded ***Abstract*** after **paid** That caused"Prejudice Standing Prolonged adjudication

---

1.)How-ever [a) moving party must in show agreater than 50% chance of prevailing....That is required showing her to be made through an affidavits; there is no right to a evidentiary hearing "*Id.* atXCII

Black's Law Dictionary sixth ed. page 668. Due Process Clause U.S. Const. Amend XIV § 1 {1} Me. Const. Art 1,§ 6-A-§ {2}Equal Protection of Due Process;Cyr v.Cyr 432 A 2d 793,797, 798 Me.(1981)However noTestimony we reverse and remand See; In re Estate of Came 129 N.H. 544, 548, (1987). Improper hearing in no evidence that of record Abstract of Title as Tenant-in -Common a Androscoggin Title Norman Rattey,no claim to Proceed M.R. Civ. P. Rule 76 D under Rule 59 *"An Appeal from a Judgment whenever taken, preserves for Review any claim of error in the"Records including any claim of error of Orders"*
B.)RECEIVER NEGLIGENCE IN FIDUCIARY DUTY.
The Decree States:"the defendant shall not Suffer waste or Damages to the premises without Written consent," the other"Sold in Commercial Manner of care diligence bring the best possesible price," Plaintiff Counsel as for not having an Appraisal of Property,Petition no Notice to disagree, not at the closing to signed the Settlement unalienable in RESPA. **Norman Rattey Receiver signed** sold on December11,2003 for $ 79,500.00 Error in Fraud Deed,and no order of rights deprived,record Joint Tenants to the New Owners ,Preserves Appeal act from the Judgment under Rule 59. Where Receiver refused that didn't recuse his self's, not honoring a Automatic Stay Continued in Negligence in the technical Discription in his deed contrary to law Court May 29, 1987 **No clouds in Title** transfer an conveyance of Property there was No Levy of Creditor,Mortgage, or Liens.A purchaser at an execution sale suceeds to the interest of the debtor and becomes the tenants in"**Common with one Owner"** (See;5 Miller ¶ Starr, Cal. Real Estate, *supra*, § 12:35., pp. 74 75).(" I, would now be an Owners by Law with that New Owners by.There were no clouds on the Property nor any form of Liens,") $ 79,500.00 paid,Lien of 60,000 buyout. Receiver not taken Control of Rental Income.

to be Paid, states in Court; ("I am not really Receiver in She was Leasing the Property") 1.) 2 Mudd. Ch .232 the New l. Pr. 88;8 com.dig. 890;18 vin.Ab.160.1 Supp.toVes Jr. 455; 2 Id. 57, 58, 74, 75, 442 455,"Bou.Inst. Index."h.t. Broker sold,Dual Agency contract Contrary to Listing a "Undisclosed Dual Agent representing two or more as clients the purchase agent Valeria sold the House..,That Contract with a buyer at bay, 17day sale indication was proof the sale wasn't an Arm's Length transaction after 15 year Listing Thomson v. Anderson 107 Utah 331,153 P 2d 665, 666, badges of Fraud Harris v. Shaw, 244Ark. 150, 272 S.W. 2d 53 (1954). Anticipation of suit Pergrem v. Smith 255 S.W. 2d 42 (Ky.App.1953) Proof of Execution favor admission Mass Court Ross v.Gould 5 green 1.204 Knox & al. v. Silloway Vol. 1.201 page 209,(1833) First Rights of refusal Option Partition Blending Possession pursent warranty Encumber that in orignal Decree **Maine Const.Article1,Art.1.**All men are equally free an independent and have certain natural unalienable right in defending acquiring possessing and protecting property in pursuing and obtaining safty and happiness.Sec. 6-A{2}Sec. 6 further nor be deprived of property or privileges, but by judgment of his"peers"or the law of the land.Title 33 § 159 note 5 but from his devises, Whose Interest are in Common not joint See; Cary v. Talbot (1921) 120 Me. 427. 115 A 166 (a) Title can be taken in the name of partner individualy as tenant- in- common **Uniform Partnership act. and Applicable State Law of Maine** See;Lipman v. Thomas 143 Me. 270, 61 A 2d 130 (1948) Fed. Re-Rolfe (F.B.C.D.C. Mass.) 25 Ber. 89 affd. affd.(CAI) 710 F 2d-1 (1983) Terry v. Little 101 U.S. 216 25 L.ed. 864 (1879) Request the Justice over rule vacate

1.but was In the Order to take the Duty,Liable and bound to a prudent honest discharge of his duties, required all person who receive compsation for their service Story, Bailm. §620, 621: an the case there cited. vide generally,

The"Order Nolle Prosequi Abandon Negligence Black's Law Dict. Sixth ed. pg. 527 U.C.C § 2-312 See;Inecto,Inc. v. Higgins, D.C.N.Y. 21 F. Supp.418 Arm's Leght Trans. Clear Title of the encumber Vested Rights.Receiver had caused"[L]iability it arises when a person{actively] partcipates in a fiduciary's breach of duty....such that he...an could not reasonably beheld to have acted in good faith

"Property sold to bring the Best Possible Price Value" 14 M.R.S.A. § 2002 chapter 403 Their was no appraisal

Absolute Right's to Bid'on his own Property Exchange Deed Title 33 § 176 ch.7:I.Title 33 § 201-A, R.S ch. 95 § 5 Providing 30 day notice 40 dayNotice before such entry 14 M.R.S.A. § 7505 (1980){6}shall Forfeit 3Times amount of Damages.Kapler v. Kapler Pen.00-86-2000 Me.131 7/ 2000, 3 American Property Law 12.45 (casner ed. 1952) In re Armshing 255 Ill. App.3d 844,625 N.E.2d 1108,1993 Rupp v. Kahn. supra 246 Cal. App. 2d at p.195 Fraudulent Conveyances 32 Cornell L.Q. 222 (1946)annos, 76 A. L.R. 864 (1932), 128 A.L.R. 1289 (1940), 133 A.L.R. 1311 (1941), 14 A.L.R. 2d 598 (1950). and 100 A.L.R. 2d 1094 (1965)together with § 6 Section 10 this section is derived from § 11 Uniform Fraud Conveyance Act and § 1-103 "Spinner v. Nutt, 416 Mass.at 556, Kurker v. Hill 44 Ma. App. Ct. 184,189,190 (1998) Legal basis constitutes a bad faith action and justified the award of sanction against the attorney Van EPS. v. Johnston 553 A 2d 1089, 1091, (Vt. 1988) State v. Grant 487 A 2d 627, 629, (Me.1985). Maine U.T.Act.14 M.R.S.A. § 3571 et seq.Fraud 11 U.S.C. § 544 (b)Section 502 Pullen v. Hutchinson (1845) 25 Me. (12 Shep.)249.(I.R.S.)id.at 52 id. 57 id.at 426, 297 A 2d662

C. CONCEALMENT,AND CONVERSION REVENUE

"One More Asset"Aug.5,1986 Order $200 dollars a mos. Equal access to Justice Act.28 U.S.C.§ 2412 (d)sufficiency of the Evidence Question of Law See; Palanza v. Lufkin 2002 Me.143 Cum.02-134 Aug.22, 2002.Tenant Partner's

34 Am.Jur.2d 6291a proportionate share deduction only barred a claim of whole Part 7 Newcombe 54 TC 1298 engaged in Leasing Property (9) Mitchell 28 BTA-767 (a) **Statory Redemption to act** within legal right [f]oreclose on collected revenue under 14 M.R.S.A. § 6322 in *its sole discretion.Appeal and Error 1994, 1003 (9.1) Proof could be Reversed a Appeal only Evidence compelled contrary finding* Gammon v. Verrill 651A 2d 831."as Rent"Shifted responsibility Unjust Enrichment (b) Conversion sufficiently provides "Substance of Merits" United StateArbitration Act III. 2,(1925)[350 U.S. 198,208]"Silents in Shifted Act" "Ambiguity" Austin v. Austin 2000 Me.61 ¶ 4, 748 A 2d 996,998, Statute of limitation **(three years.)**e.g.Md.Fam. Law Code Ann. 8-210 (1991) Wis. Status Ann. 767 .255 (7) (West Law Supp. 1995).Tenant-In-Common half Interest in the Title Marital Property.18 years 9 mos. Withheld "If a person entitled to there possesion of Personal Property demands it the return,under dominion and in Control,that was unjustified the refusal to give the property back is Conversion See; Edwards v.Jenkins(1932) 214 Cal 713, 720, Witkin, (*Supra* at section 622,) United States 365 U.S. 857, 858,....3 Am. Jur. 2d § 19 , 3 ACorbin Contract § 611 (1960) U.S. (Sixth Circuit Orchard Group v. Konica Med. Corp. No.96-3686 App. 98 A 0041P.See; Jeffrey Ackerman v. Theodore M. Hojnowski 2002 Me. 147 Aug. 27, 2002 (1)Federal a. Mass Adv. Sh.(1975)2052 2060, Demoulas Super Mkt. v. Peter's Mass. App. 370N. E. 719. 9 Moore's Par. 110.18. (IRC) § 1031(a) (1) Invests. Remedy by Due Course of Law Constitution Act. 1-9an Const. Art. 4-17" Miscarriage of Justice" that exceed the Clean Hands Equity, Andis v. Schick Dry Shaver Inc. No. 6303 (94 F 2d 271 7th Circuit parrellel to Court Key 351.50, Colby v. York County 442 A 2d 54 Me. 1982) Title 33 Chapter 17 § 953 Recovery of Rent, Their share, refused for a reasonable time after demand Co tenants.

10.
CONCLUSION

Controversy of Evidence as illegal The consequence of Fraudulent results of Plaintiff Action contrary to Statute "Transfer in Lease"Plaintiff encumbered in Bond forthe Deed Marital residence without written Defendant that consent Tenant's-in-Common with many leases of over 18year and 9 mos. willfully in disobedience, beyond the dictionary meanimg Expeditious fashion, failed refused carry-out the sale. In efforts to collect and Capitalize on rental.The proof Evidence Credibility demonstrated the prejudice hear-say being Meritorious,There no Liens, of Mortgage, Creditors,no absolute contingency.Fiduciary Receiver of not Appraising.The Settlement of RESPA in conducted without A Market Value.The receiver signed transfer Fraudulent deed was not Petitioner's Free will in deed , equally deprived of acquiring tenant [I]nterest half the property Where May 29, 1987order Declaration one half solely affecting [I]nterest Vested right theTitle. Negligence of her Counsel duty, not recorded Abstract, There were no cloud of Title.The Respondent Barred of Ten Years Limitation, of Laches, Superior Docket Table "of Contents"July 20,1993,and complaint letter filed on July25,2002.moving party must assert beyond its doubt The Habendum clause To-have-and to hold or to-have-and-holding-on- to Capitalize in Unjust an Enrichment, Evidence that Circumvent to Fraud as Ex-parte receiver had extinguish un-clean-hands of 18 yrs. of Contempt.

Dated May 30,2004

Norman J.Ratley
95 Maine Street
P.O. BOX 3200
Auburn, Maine 04212

Clement A.St.Hilaire
P.O. Box 592
Stratham,New Hampshire
(603) 320 3918 03885

David W.Hirshon
3 Canal Street P.O. B.15060
Portland, Maine 04112

Judith W. Andrucki
,79 Lisbon Street P.O.B.7120
Lewiston, Maine 04243

APPENDIX

A-11.

STATE OF MAINE **SUPRIOR COURT**
OXFORD,ss. **CIVIL ACTION**
DOCKET NO.CV.81-152

GRACE A.ST.HILAIRE
Plaintriff
v.
CLEMENT A.ST.HILAIRE
Defandant

ORDER FOR PARTIAL DISB URSEMENT OF PROCEEDS OF SALE OF MARITAL RESIDENCE

[RECEIVED MAY 12,2004]

Pursuant to the Order of this court dated March17 2004 the clerk caused the proceed of the Sale of the Marital residence to be deposited in an interest bearing account at Oxford Bank. and Trust Company, escrow account number 036900836.As of the date of hearing May4 2004 the total balance on deposit is $ 73,230.58, including accumulated interest.

The Plaintiff has requested a partial disbursement of proceeds to which she is entitled at this time.

After hearing, The Court grants the Motion and orders that the following payments be made,

A. Net sale proceeds $ 72,949.99

B Present balance (net proceeds pluss accumulated interest) $ 73,230.58

C.1.One half of net sale Proceeds to Plaintiff $ 36,474.99

2. Reimbursement to Plaintiff for Broker's Fees deducted from gross sale amount($ 5.565.00-.-2) 2,782.50

3.Reimbursement to Plaintiff for Taxes and other Fees deducted from gross Sale Amount($ 6,632.75-.- 2) 3,316.38

4.Amount payable to Plaintiff

Grace A.St.Hilaire $ 42,573.87

D.Total proceeds to be paid to Hark Andrucki, Attorney for Plaintiff, for counsel fees, expenses, and treble costs, as provided in the separate Order this Date.

E. 1.Fees and expenses of Receiver per Affidavit of March 24,2004 2,047.70

2.Fees and Expenses of Supplemental affidavit of receiver for hearing on May 4,2004. 880.55

3.Total proceeds to be paid to Norman J.Rattey Esq.Receiver $ 2,928.25

F. 5%of proceeds of escrow account as allowed by 4 M.R.S.A. § 556 for the Total sum of proceeds paid by this Order ($ 53,039.61). Payment to be made to the Treasurer of the State of Maine. $ 2,651.98

G. Total of all sums to be paid pursuant to this Order $ 55,691.59

Any further sums claimed by or ordered paid to Plaintiff shall be by separate Order.

It is futher Ordered that all remaining proceeds,including sum due to defendant shall remain on deposit until final determination of any remaining motions and until further Order of the Court.

The Clerk shall incorporate this Order into the Docket by reference. M.R.Civ.P. (a) So Ordered.

Dated: May 11, 2004 " ss./ Thomas E. DelahantyII"
Justice, Superior Court.

A-13.

STATE OF MAINE
OXFORD,ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV.81-152

GRACE A.ST. HILAIRE
Plaintiff

ORDER ON ATTORNEY FEES AND COSTS

v.

CLEMENT A. ST.HILAIRE
Defendant

[RECEIVED MAY 12 2004]

In its decision of February 5,2004, the Law Court ordered that the defendant pay to plaintiff "treble costs and her reasonable attorney fees to be determinded on remand."St Hilaire v.St.Hilaire,2004 Me.13, 841A 2d783. Pursuant to this directive,the court scheduled a hearing for May4,2004 Notice was provided by the Clerk Plaintiff appeared in person and with counsel and the defendant appeared *pro-se* as he has in the past.

In support of her request for counsel fees and costs plaintiff submitted affidavits that cover not only the appeal, but also counsel's services in responding to defendant's request for reconsideration.[1]

The defendant objected to the fees by filing a extensive bound brief that attempted to argue facts not evidence and to relitigate issues previously determinded by the court and totally irrelevant to the present proceedings.

---

1 Plaintiff also submitted an affidavit regading counsel fees incurred for responding to defendant's petition for Writ of Certiorari before the United States Supreme Court. Because it was not submitted until the date of the hearing, the court will consider it at a future time after the defendant has had an opportunit to respond and be heard at the hearing for pending motions on June 3,2004

At the May 4,th hearing on attorney fees,Mr. St.Hilaire continued to argue legal authority and fact not relevant to fees and costs.

After hearing and review of counsel's fees affidavits,the court awards treble costs for the appeal in the amount of $ 249.39.

The affidavit for counsel fees by Judith W. Andrucki Esq.states that she has practice law since1979,that she is "experienced in the litigation of divorce and family law matters in the geographical area. She charges $ 150.00 per hour as afair and reasonable rate and the court accepts that amount as reasonable for an attorney of her experience and Competence in the Androscoggin and Oxford County area. In addition to counsel fees, plaintiff also seek to recover routine and necessary expenses. A second affidavit request fees and expenses regarding defendants"Motion for Consideration"seeking reconsideration by the Law Court.

Attorney Andrucki's affidavits are supported by itemized billing statements for 60.7 hours of service, and $ 192.85 for routine expenses.

An examination of the statement of time for service appears to list five persons as"time keeper"they are listed by initial: "JWA," "DCP," "KGK," "CAH," and"ABM," The court assumes the "JWA," refers to Judith W.Andrucki, Esq. and the "KGK," refers to Karen G. Kingsley, Esq. who appeared before the court at the hearing on May 4,th. The other persons are not identified in either the affidavit or the biling statement, but appear to be a paralegal or other attorneys within plaintiff counsel's office.The service listed for counsel appear directly related to the appeal and their hourly rates do not exceed or are less than those Attorney Andrucki.

Althoug the Law Court's Order provides for "reasonable attorney fees,"this court determines that it is reason

Able to compensate plaintiff for expenses of paralegal. for services that would otherwise be performed by an attorney at a higher rate, but not for matters that are ministerial or administrative.Accordingly, the court approves fees in the amount of $ 6,810.00[2] plus expenses of $190.25 for a total of $ 7,000.50 to be paid from defen dant's share of the proceeds of the marital residence.

The Court also approves fees of $ 285.00 and expenses of $ 2.60 directly related to the defendant's post-appeal "Motion for Consideration,"[3]. The Clerk shall make the following entry as the Order of the Court:

1.The defendant shall pay to plaintiff the sumof $249.39 for treble costs as Ordered by the Law Court.

2.The defendant shall pay to plaintiff the sum $ 6,810.25 for reasonable attorney fees as Ordered by the Law Court, pluss fees of $ 285.00 for attorney's service related to defendant's "Motion for Consideration."

3.The defendant shall pay to plaintiff the sumof $190.25 as reasonable and necessary expenses outside the bill of costs relative to the appeal and $ 2.60 for expenses related to defendant's "Motion for Consideration."

4. The Total sum of $ 7,537.49 to be paid by the defendant shallbe deducted from his share of disbursement of proceeds from the sale of the marital real estate.[4]

So Ordered.

Dated: May 11, 2004 "ss./Thomas E.DelahantyII"

Justice, Superior Court

---

[2]Although not identified in counsel's affidavit, the court assumes that services for "CAH," at $75.00 per hour are for paralegal time. The Court has received the statement of service and has deducted $ 431.25 (5.75 hours at $ 75.00 per hour) for what appear to be ministerial administrative functions.

[3] The court has deducted $ 52.50 (.7hours @ $75.00 per hour) for paralegal service on the "Motion for Consideration."

[4] See separate Order of this date.